

V I L L A G E   O F  
**ARCANUM**

***CODIFIED  
ORDINANCES  
OF THE  
VILLAGE OF  
ARCANUM  
OHIO***

***PLANNING AND ZONING CODE***

***ADOPTED 10/1/2022 by Ord.#2022-28***

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**VILLAGE OF ARCANUM**  
**ZONING CODE**  
**TABLE OF CONTENTS**

**PART ONE:INTRODUCTION**

**Chapter 1 – General Provisions**

Section 1.1	Intent	1-1
Section 1.2	Construction of Language & Definitions	1-2

**PART TWO: ADMINISTRATION AND ENFORCEMENT**

**Chapter 2 – Administration**

Section 2.1	General Provisions	2-1
Section 2.2	Enforcing Officer	2-1
Section 2.3	Planning & Zoning Commission	2-2
Section 2.4	Village Council	2-4

**Chapter 3 – Permit Requirements, Enforcement and Penalty**

Section 3.1	Zoning Permit Requirements	3-1
Section 3.2	Enforcement	3-2
Section 3.3	Penalties and Fines	3-3

**Chapter 4 – Amendments** 4-1

**Chapter 5 – Nonconformities**

Section 5.1	General Provisions	5-1
-------------	--------------------	-----

**PART THREE: BOARD OF ZONING APPEALS**

**Chapter 6 – Board of Zoning Appeals**

Section 6.1	Membership, Organization, Powers and Duties	6-1
-------------	--	-----

**Chapter 7 – Appeals, Conditional Uses & Variances**

Section 7.1	Appeals	7-1
Section 7.2	Application	7-1
Section 7.3	Conditional Use	7-2
Section 7.4	Variance	7-3
Section 7.5	BZA Public Hearing/Ruling	7-4

**PART FOUR: ZONING**

**Chapter 8 – Zoning Districts and Map**

Section 8.1	Official Zoning Map	8-1
Section 8.2	Establishment of Zoning Districts	8-2
Section 8.3	Official Zoning Map Certification	8-2
Section 8.4	Rules for Map interpretation	8-2
Section 8.5	Interpretation of District Boundaries	8-3
Section 8.6	Zoning Upon Annexation	8-3

## **Chapter 9 – District Regulations**

Section 9.1	Compliance with Regulations	9-1
Section 9.2	Residential District Conditions	9-2
Section 9.3	Summary of Residential Lot Standards and Yard Requirements	9-3

## **Chapter 10 – Residential District**

Section 10.1	R-1A, R-1B, R-1C – One Family Residential District	10-1
Section 10.2	R-2- Multi-Family Residential District	10-2
Section 10.3	R-3 Multi-Family Residential District	10-3

## **Chapter 11 – Planned Unit Development (PUD)**

Section 11.1	PUD Districts (Residential, Business, Industrial)	11-1
Section 11.2	Summary of PUD Lot Standards and Yard Requirements	11-4

## **Chapter 12 – Business District**

Section 12.1	B-1 – Downtown Business	12-1
Section 12.2	B-2 – Residential Business	12-3
Section 12.3	B-3 – Neighborhood Business	12-5

## **Chapter 13 – Industrial District**

Section 13.1	I-1 Light/ Heavy Industrial	13-1
--------------	-----------------------------	------

## **Chapter 14 – Floodplain Overlay District (FP)**

14-1

## **Chapter 15 – Additional Zoning Requirements**

Section 15.1	Accessory Buildings	15-1
Section 15.2	Alternate Energy Generation Systems	15-2
Section 15.3	Fences, Walls, Hedges, Screening/ Buffer	15-5
Section 15.4	Off-Street Parking & Loading	15-8
Section 15.5	Parking/Storage Limitations in Residential Districts	15-12
Section 15.6	Signage	15-13
Section 15.7	Swimming Pools	15-19
Section 15.8	Decorative Water Feature	15-20

## **Chapter 16 – Supplemental District Regulations**

Section 16.1	Antenna Communication Regulations	16-1
Section 16.2	Drive-In Service Establishments	16-2
Section 16.3	Height Regulation	16-3
Section 16.4	Home Occupations	16-3
Section 16.5	Outdoor Furnaces/ Firepits	16-4
Section 16.6	Outdoor Storage/ Waste Disposal	16-4
Section 16.7	Projections into Required Yards	16-5
Section 16.8	Public Right-Of-Way Access	16-5
Section 16.9	Temporary Uses	16-6
Section 16.10	Water Wells	16-7

## **Chapter 17 – Development Plan Review**

Section 17.1	General Provisions	17-1
--------------	--------------------	------

## **Chapter 18 – Construction Standards, Regulations, And Demolition**

Section 18.1	Construction Standards & Regulations	18-1
Section 18.2	Demolition of Structures	18-1
Section 18.3	Enforcement	18-3

## **CHAPTER 1 GENERAL PROVISIONS**

This Ordinance shall be known and may be cited as the "Zoning Code of the Village of Arcanum," except as referred to herein, where it shall be known as the "Zoning Code." Unless otherwise provided herein or by the law or implication thereof, the same rules of construction and application shall govern the interpretation of this Ordinance as those governing the interpretation of the Ohio Revised Code.

### **SECTION 1.1 – INTENT**

The purpose of this Zoning Code is to promote and protect the public health, safety and general welfare of the Village of Arcanum. Implementation will be in accordance with any and all future addenda or amendments approved by Council and be within the comprehensive plan for the desirable future development of the Village and planning process that is reflected in the contents of this Zoning Code and zoning map of the Village by:

- A. Dividing the Village into zones or districts (per O.R.C. Chapter 713) within which specific regulations contained in this Zoning Code controls the location, construction, reconstruction, alteration and use of buildings, structures and land for residence, commerce, industry or other specific uses.
- B. Regulating the area dimensions of land, yards and open spaces so as to secure adequate light, air and safety from fire and other danger.
- C. Lessening or avoiding congestion in the public streets, regulating the bulk, height, design or percent of lot occupancy and location of buildings.
- D. Protecting the character of the existing residential, business, industrial and institutional areas and to assure their orderly and beneficial development.
- E. Facilitating the orderly, efficient and appropriate growth and development within the Village.
- F. Regulating certain non-conforming uses of land, buildings and structures.
- G. Establishing development densities by zoning districts that economize the provision of water, sewer, streets and highways, fire and police protections, schools, parks, recreation facilities and other government services.
- H. Protecting residential, business, commercial and industrial land uses from encroachment by incompatible land uses that would not be conducive to the public health, safety and general welfare.
- I. In its interpretation and application, the provisions of this Zoning Code shall be held to the minimum requirements, adopted for the promotion of the public health, safety and the general welfare. Wherever the requirements of this Zoning Code are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the highest standards, shall govern.
- J. Should any section or provision of this Zoning Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of

the Zoning Code as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

## **SECTION 1.2 – CONSTRUCTION OF LANGUAGE & DEFINITIONS**

### **A. Construction Of Language**

The following words and phrases when used in this Zoning Code, except as otherwise provided, shall have the meanings respectively ascribed to them in this chapter.

1. Words used in the present tense include the future tense.
2. The singular form shall include plural and plural shall include singular.
3. The word “shall” is mandatory, and the word “may” is permissive.
4. “Occupied” or “used” shall be considered as though followed by the words “or intended, arranged or designed to be used or occupied.”
5. The word “building” includes the word “structure,” similarly “dwelling” includes the word “residence.”
6. The word “lot” includes the word “plot” or “parcel.”

Words and terms not specifically defined carry their customarily understood meanings. Regardless of capitalization, definitions are standard.

### **B. Definitions**

Accessory Building/ Structure – A structure occupied by a use which is subordinate, secondary, incidental to, and customary in connection with the principal building or use and located on the same lot as the principal building or use. Recreational facilities designed for the use of the occupants of a single-family dwelling and their guests are considered accessory buildings.

Accessory Use – A use subordinate, secondary, incidental to, and customary in connection with the principal building or use and located on the same lot as the principal building or use.

Administrative & Business Offices – An office which has no retail trade with the public and maintains no stock of goods for sale to customers.

Alley – A public right-of-way less than twenty (20) feet wide, which provides secondary means of access to abutting property, and allows access to utility services, but is not intended for general traffic circulation.

Alterations – Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls

or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Alternate Energy Source - Alternative energy refers to energy sources other than fossil fuels (such as coal, petroleum, and diesel) and includes all renewable and nuclear energy sources. A Conditional Use Permit must be obtained for all alternate energy sources.

Auto Repair, Painting and Body Shops - A place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame or fender straightening and repair, overall painting and undercoating of automobiles.

Auto Service Station - A place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises, including the sale of minor accessories and the servicing of and minor repair of automobiles.

Bars, Taverns, and Nightclubs - Establishments primarily engaged in the retail sale of drinks such as beer, ale, wine, liquor, and other alcoholic beverages for consumption on the premises. The sale of food may also be a part of the operation.

Basement - A story whose floor level, two (2) feet or more below grade level, but having less than half its clear height above grade level. A basement shall not be counted as a story.

Bed and Breakfast - A residential, single-family dwelling in which lodging is provided for compensation on a night-to-night basis by the owner/occupant of such dwelling, and not more than three (3) sleeping rooms are devoted to such accommodations.

Block - An area of land within a subdivision that is entirely bounded by streets, highways or ways, except alleys, or a combination of streets, highways or ways and rivers, streams, railroad rights-of-way or other exterior boundaries of the subdivision.

Board of Zoning Appeals - Village of Arcanum Board of Zoning Appeals hereinafter refer to as "BZA."

Boarding or Lodging House - A building other than a hotel, not exceeding ten sleeping rooms, where lodging and meals are provided for compensation and is prearranged for definite periods of time.

Buffer - A strip or parcel of land, privately restricted or publicly dedicated as open space, located between a residential development and other

incompatible uses, for the purpose of protecting and enhancing the residential environment.

Building – A building is a structure, designed, intended, or used for shelter, enclosure, or protection of person, animals, chattels, or property.

Building Height – The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof surface.

Building Line – The front yard setback line established by this Zoning Code, generally parallel with and measured perpendicularly from the front lot line, defining the limits of a front yard in which no building or structure may be located.

Business Services - Any profit-making activity which renders services primarily to other commercial, institutional, or industrial enterprises, or which services and repairs appliances and machines used in other businesses.

Camping and Recreational Vehicle/Equipment -

For the purposes of this Zoning Code, camping and recreational equipment shall include, but not limited to the following:

1. Boat and Boat Trailer - Boat and boat trailer shall include boats, jet skis, floats, and rafts, plus the normal equipment to transport the same on the highway.
2. Folding Tent Trailer - A canvas folding structure, mounted on wheels and designed for travel and vacation uses.
3. Motorized Home - A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
4. Pick-Up Camper - A structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it suitable for use for travel, recreational, or vacation uses.
5. Travel Trailer - A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.
6. ATV's, golf carts, dirt bikes, etc.

Car Washing Facilities – Area of land and/or a structure with machine or hand- operated facilities used principally for cleaning, washing, polishing, or waxing of automobiles.

Carry-Out – A place of business offering food and beverages, which may include liquor, beer, wine, if licensed by the State of Ohio, where the food and



beverages are dispensed at the counter for consumption within the building or off the premises.

Child Day Care Center; Nursery— Any place in which child day care is provided, with or without compensation, for seven or more children at any 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 at least seven children at any one time. In counting children for the purposes of this definition, any children under 6 years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted.

Club - An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit.

Commission - "Commission" means the Planning and Zoning Commission of the Village of Arcanum.

Comprehensive Plan- A plan which may consist of several maps, data, policies, and other descriptive matter, for the physical development of the Village which has been adopted by the Village to indicate the general location for proposed physical facilities including housing, industrial, and business uses, major streets, parks, schools, public sites and other similar information.

Conditional Use - A use permitted only after review of an application by the BZA, in each specific instance, and after determination by the BZA that all regulations and standards of this Zoning Code applying to the specific use in the particular location will be met, along with such additional conditions or safeguards as the BZA may prescribe in the specific case and circumstances, in order to prevent harm or injury to adjacent uses and the neighborhood, and/or in order to improve the public health, safety, convenience, order, prosperity, and general welfare.

Conditional Use Permit - A permit issued by the BZA to allow certain specific developments that would not otherwise be allowed in that particular zoning district where the land is located. These permits are issued only after the applicant has followed the procedures as stated in this Zoning Code. Development under a conditional use permit differs from a zoning change in that it is much more specific. The applicant submits plans and, if approved, he/she must follow those plans exactly or reapply for a permit before deviating from that plan.

Convalescent Home (Nursing Home, Rest Home) - An establishment, which specializes in providing necessary services to those unable to care for themselves.

Convenience Store – Retail stores that cater to the motoring public where the sale of food items such as hot or cold drinks, prepackaged foods, tobacco, roadmaps, magazines and other publications; automotive maintenance items, and other retail items, that may be readily purchased. A convenience store may also sell gasoline and alcohol. This does not include drive-in or drive-through windows.

Council – The Council of the Village of Arcanum, Ohio.

Cul-De-Sac – A local street with one end open to traffic and the other end terminating in a vehicular turnaround.

Development Standards/ Plan - Standards controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Development standards include regulations controlling maximum height, minimum lot area, minimum lot frontage and minimum size of yards and setbacks.

District - A portion of the incorporated area of the Municipality within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Zoning Code.

Drive-thru Facilities – A designated place, in conjunction with a retail or service establishment, from which persons can conduct the major portion of their business without leaving their motor vehicle.

Driveway – A private road giving access from a public way to a detached single-family dwelling or to a group of multi-family or commercial building on abutting ground.

Dwelling, or Residence - Any building or portion thereof which is designed or used for residential purposes, but not including a cabin, hotel, motel, rooming house, or other such accommodation used for transient occupancy.

Dwelling; one-family - A building designed exclusively for and occupied exclusively by one family.

Dwelling; two-family - A building designed exclusively for occupancy by two families living independently of each other.

Dwelling; multi-family - A building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

Easement - A right-of-way granted by the property owner for limited use of private property for specific public or semi-public purposes.

Educational Institutions, Elementary, Junior High, and High School – Public, private, and/or religious schools including grades K through 12.

Enforcing Officer – The Mayor of the Village of Arcanum or his/her designee, duly charged with the enforcement of this Zoning Code.

Erected - Includes built, constructed, altered, reconstructed, moved upon or any physical operations on the premises, which are required for the construction. Excavation, fill, drainage and the like shall be considered a part of erection.

Excavation - Any breaking of ground except common household gardening and ground care.

Factory-Built Housing – A factory-built structure with no serial/VIN number with no permanent axles, designed for long-term residential use, the components of which are essentially constructed or assembled prior to its delivery and installation upon the site. For the purposes of this Zoning Code, "factory-built housing" shall include the following:

1. Manufactured Home – Any structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, and which bears a label certifying that it is built in compliance with Federal Manufactured Housing Construction and Safety Standards.
  - a. Mobile Home – See "Mobile Home" definition.
2. Modular Home – Factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes, including permanent foundations.

Failure of Delivery – A particular notice was not received, due to circumstances beyond the control of the Village, and does not include the lack of mailing of the subject notices in the matter specified.

Fence - Any enclosing structure, other than part of a building, of sufficient strength and dimensions to prevent straying from or prevent outside intrusion.

Financial Establishments – These facilities include banks, savings and loan associations, credit unions, finance companies, loan offices, and safe deposit companies.

Floor Area of a Non-Residential Building -. (To Be Used in Calculating Parking Requirements) The area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers.

Such floor area which is used or intended to be used principally for the storage or processing of merchandise, such as hallways, stairways and elevator shafts, or for utilities or sanitary facilities, shall be excluded from this computation of floor area. Measurements of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

Floor Area of a Residential Building - The square footage of each story of the building measured from the exterior walls. The finished attics, attached garages, breezeways, and enclosed and unenclosed porches do not constitute floor area as defined herein.

Frontage - The portion of the lot that directly abuts the street, and has direct access thereto. Lot frontage shall be measured along the minimum building setback line for the district within which such lot is located.

Funeral Home - A building or part thereof used for human funeral services. Such building may contain space and facilities for embalming and the performance of other services used in preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel and residency shall also be permitted.

Garage, Private - An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned or used by the occupants of the main building.

Garage, Service - Any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repair or kept for remuneration, hire or sale.

General Merchandise Stores - These facilities include department, variety, discount, home furnishing, grocery, retail sales, and drug stores.

Grade (ground level) - The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the above ground level shall be measured at the sidewalk, unless otherwise defined herein.

Home Occupations - Any occupation or profession conducted primarily by immediate resident family members, which is clearly incidental and secondary to the dwelling's residential use. A home occupation must meet the standards and requirements specified in this Zoning Code.

Hospital - A public or semipublic facility that provides accommodations and continuous service for the sick and injured including obstetrical, medical and surgical care.

Hotel or Motel - A building in which lodging is provided or offered to the public for compensation and which is open to transient guests, in contradiction to a boarding house or lodging house operated on a membership basis.

Improvement - Any addition to the natural state of land which increases its value or utility, including buildings, street pavements, sidewalks, crosswalks, water mains, sanitary sewers, landscaping, street lighting, street trees, public utilities, paved parking areas and other appropriate items.

Institution - An organization providing social, cultural, educational or health services to member agencies, organizations, individuals, or to the general public.

Junk - Scrap copper, brass, rope, rags, batteries, paper, rubber, junked, dismantled, or wrecked/inoperable automobiles or parts thereof; iron, steel, and other scrap ferrous and non-ferrous materials and scrap wood materials (excluding stacked firewood) which are not held for sale or plastic re-melting purposes by an establishment having facilities for processing such materials.

Junk Yard (Salvage Yard) - An open area where waste, used or second-hand materials are bought and sold, exchanged, stored, baled, packaged, disassembled or handled. A junk yard includes automobile wrecking yards and includes any area of more than 100 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. Two or more inoperative or unlicensed vehicles shall be construed to be a junkyard. O.R.C. Section 4737.06 prohibits junk yards within any municipality's residential district.

Kennels - Any lot or premises used for the sale, boarding or breeding of dogs, cats or other household pets.

Landscaping - The improvement of open areas by the planting and maintenance of trees, bushes, flower gardens, grass and other vegetation.

Loading Space - An off-street space on the same lot with a building or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Lot - A parcel of land occupied or to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this Zoning Code. Such lot shall have frontage on an improved public street, or on an approved private street.

1. Lot Area - The total horizontal area within the lot lines of the lot.
2. Lot Coverage - The part or percent of the lot occupied by buildings including accessory buildings.
3. Lot Lines - The lines bounding a lot as defined below:

- a. Front lot line - In the case of an interior lot, means that line separating such lot from the street. In the case of a corner lot or double frontage lot, the front lot line means the line separating such lot from either street.
  - b. Corner lot line - Means any lot at the junction of and abutting on two (2) or more intersecting streets.
  - c. Rear lot line - The lot line opposite the front lot line. In the case of a lot where the side lot lines meet at the rear of the lot (i.e., a triangular lot) the rear lot line shall be considered to be the point of intersection of the side lot lines. In the case of a corner lot, the rear lot line is opposite the front lot line of least dimension.
  - d. Side lot line - The lot line running from the front lot line to the rear lot line. This line is also the line dividing two (2) interior lots.
4. Lot Measurements -
    - a. Lot Depth - A distance measured in the mean direction of the front lines of the lot line to the mid-point of the rear lot line.
    - b. Lot Width - The horizontal distance between the side lot lines, measured at the two points where the building line or setback line intersects the side lot lines.
  5. Lot Minimum Area - The area of a lot computed exclusive of any portion of the right-of-way or any public thoroughfare.
  6. Lot of Record - Any lot which individually or as a part of a subdivision has been recorded in the Office of the Recorder, Darke County, Ohio, as of the effective date of this Zoning Code.
  7. Through Lot - Any interior lot having frontages on two or more parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of such lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Main Building - A building which is considered the principal use of the lot upon which it is situated.

Main Use - The principal use to which the premises are devoted and the principal purpose for which the premises exist.

Major Subdivision - A development not currently supported with streets or infrastructure. "See Chapter 17 - Development Plan Review"

Major Thoroughfare - A street which is intended to serve as a large volume trafficway for both the immediate Village area and in the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway,

or equivalent term to identify those streets comprising the basic structure of the street plan. Any street with a width, existing or proposed, of eighty feet shall be considered a major thoroughfare.

Manufacturing - Any production or industrial process, including food processing, which combines one (1) or more raw materials or components into a product or which changes the nature of the materials entering the process, and which by the nature of the materials, equipment and/or process utilized is not objectionable by reason of odor, noise, vibration, gas fumes, dust, smoke, refuse, or water-carried wastes.

Medical Offices/Clinics – Offices of physicians, dentists, and other health practitioners and medical and dental laboratories. Establishments primarily engaged in outpatient care with permanent facilities and with medical staff to provide diagnosis and/or treatment for patients who are ambulatory and do not require in-patient care.

Minor Subdivision – A development within the current zoned districts supported with streets and infrastructure.

Mobile Home – Factory built housing identified with a serial number or VIN number and which has permanent wheels.

Nonconforming Use – Lots and uses of structures and land in combination or portion thereof, lawfully existing at the effective date of this Zoning Code, or amendments thereto and that does not conform to the provisions of the Zoning Code in the district where it is located.

Nurseries and Garden Supply Stores – A space, including an accessory building or structure, for the growing and storage of live trees, shrubs, or plant materials offered for retail sale on the premises, including products, equipment and supplies used for gardening or landscaping.

Off-Street Parking Lot Spaces – An area providing vehicular parking spaces with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit and must have adequate ingress and egress from each vehicle.

Parking Lot – Any area other than street, drive or alley used or intended to be used for the storage of motor vehicles.

Person – Any individual, corporation, company, business, partnership, association or legal entity.

Personal Services - Any enterprise, conducted for gain, which primarily offers non-tangible services to the general public such as shoe repair, watch repair, retail dry cleaning, barber and beauty shops, and related activities.

Places of Worship – Establishments of recognized religious organizations operated for worship or for promotion of religious activities.

Planned Unit Development (PUD) – A structure consisting of attached units with zero lot lines with individual deeds on each unit which are not subject to the standard zoning requirements, but instead works with the local government to develop criteria that will determine common areas, private areas and building guidelines.

Planning Commission – The Planning Commission of the Village of Arcanum established pursuant to ORC Chapter 713.01.

Plat - A map of a subdivision.

1. Preliminary Plat – A preliminary map showing the proposed layout of a subdivision in sufficient detail to allow review by the Planning Commission.
2. Final Plat – A map of all or part of the subdivision prepared and certified by a registered engineer or land surveyor in accordance with the requirements of the Village of Arcanum.

Pole Barn - A type of post-frame construction, that uses large poles or posts buried in the ground to provide the vertical structural support, along with girts to provide horizontal support to the structure.

Preexisting Use – An existing use of the type listed as a special use in the zoning district that was lawfully established on the effective date of this Zoning Code.

Principal Use – The primary or predominant use of any land or improvement on it.

Private Clubs – An association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests in compliance with all applicable federal, state, county, and local laws.

Private Schools – Private schools, including but not limited to, business or commercial schools, dance or music academies, kindergarten, nursery, play, and special schools other than public educational facilities.

Professional Office – A business office of a person or persons engaged in providing to the general public services of a professional nature such as legal, medical, accounting and architectural services.

Public Offices and Public Buildings – Establishments for local, county, regional, state or federal government agencies.



Public Utility - Any person, firm or corporation, municipal department, board or commission duly authorized under State or municipal regulations to provide to the public the following utilities: gas, steam, electricity, sewage disposal, communication, telegraph, telephone, transportation or water.

Reconstructed – Any change, addition, or modification in construction, use or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams, or girders the act of which may be referred to herein as “altered.”

Recreation Facilities - Public or privately-operated uses such as country clubs, golf courses, swimming pools, or other areas maintained for the purpose of providing recreation.

Recreational Vehicle – (See Camping and Recreational Vehicle/Equipment)

Restaurant; Fast Food – An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption within the restaurant building or as a carry-out order.

Retail Stores – Stores primarily engaged in selling merchandise to consumers and rendering services incidental to the sale of goods.

Right-of-Way - A strip of land lying between property lines, wherein is located a street, thoroughfare, alley or easement dedicated or otherwise acquired for use by the public.

Screening – The placement of landscaping or fencing on a lot in a manner to reduce any negative effects resulting from the location of two or more dissimilar uses next to one another.

Self-Service Storage Facility – A building or group of buildings in a controlled access that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customer goods or materials.

Setback line – A line established by this Zoning Code, generally parallel with and measured from the lot line, defining the limits of a yard in which no portion of any principal structure, other than an accessory building, may be located except as may be provided in said Zoning Code.

Sexually Oriented Business/ Unlicensed Massage Parlors – A business that is part of the sex industry, such as sites of erotic performance and erotic paraphernalia stores.

Sidewalk - A concrete surface parallel to the curb lines or edge of pavement of a roadway and intended for pedestrian use.

Sign - A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which directs attention to an object, product, place, activity, person, institution, organization or business.

Sight Distance - The minimum extent of an unobstructed vision (on a horizontal plane) along a street from a point five feet above the center line of a street.

Similar Use - A use not specifically listed in any of the permitted building or use classifications of any district, but which may be found analogous and added to the classification, according to the procedures and requirements of this Zoning Code.

Sketch Plan - An informal plan or sketch showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

Street - The full width of the right-of-way between two (2) property lines, both paved and unpaved, intended to provide principal means of access to an abutting property.

Structural Alteration - Any change in the supporting members of a building, such as bearing walls or partitions, columns, roofs, beams or girders, or any substantial change in the footprint of the building.

Structure - Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to, walls, buildings, and patios. For the purposes of this Ordinance, the term "structure" shall not include fences. Notwithstanding anything to the contrary, a "structure" includes mobile or moveable structures.

Sub-Division - See "Major Subdivision" and/or "Minor Subdivision"

Swimming Pool - A structure constructed or placed below ground or above ground, which contains water in excess of 18 inches in depth and is suitable or utilized for swimming or wading.

Temporary Use - A use permitted by the Enforcing Officer to exist during periods of construction and/or for special events.

Tent - Any temporary structure for sheltering a public gathering, constructed wholly or in part from canvas, tarpaulin or other similar materials and includes shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings and all similar meetings or exhibitions in temporary structures.

Thoroughfare - The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic.

Utility/Essential Services – The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

Utility Trailer – Any vehicle, whether a flatbed or enclosed, drawn by a motor vehicle and designed or used for carrying property wholly on or in its own structure, including but not limited to, construction equipment, construction materials, tools, lawn or landscaping equipment, landscaping materials, motorcycles, all-terrain vehicles, horses and other animals and/or livestock.

Variance – A modification from the strict terms of the relevant regulations set forth in this Zoning Code where such modification will not be contrary to the public interest and where conditions are peculiar to the property (and not the result of action by the applicant) a literal enforcement of the regulations would result in unnecessary and undue hardship.

Vehicle – Anything incorporating wheels and/or chassis within its assemblage to enable its mobility across the land.

Veterinary Clinic, Animal Grooming/ Boarding – Any building or structure used for treatment and care of an injured or ailing animals administered by a Doctor of Veterinary Medicine licensed to practice in the state, or activities where the principal business is domestic pet hygiene including washing, brushing, shearing, nail cutting and overnight boarding.

Village – The incorporated municipality of Arcanum, Ohio.

Warehouse – A building used principally for the storage of goods and materials.

Yard – The required open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Zoning Code, and as defined herein:

1. Front Yard - The portion(s) of a lot extending across the full width of the lot between the side lot lines and the depth being the minimum horizontal distance between the street right-of-way and the building or structure. There shall be a front yard on each street side of a corner. No accessory building shall project beyond the front yard line on either street.

2. Rear Yard – The portion of a lot extending across the rear of the lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear of the building or structure. In the case of a corner lot, the rear yard shall be opposite the narrow street frontage.
3. Side Yard - The portion of a lot that is located between the side lot line and the nearest building or structure.

Zoning Code – The zoning regulations for the Village, including any amendments.

Zoning District – A portion of the Village within which certain regulations and requirements or various combinations thereof apply under the provisions of this Zoning Code.

Zoning Map – The map of the Village showing the various zoning districts together with all amendments thereto subsequently adopted and incorporated as part of the Zoning Code by Village Council.

Zoning Permit – Documentation issued by the Village authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses and certifying all requirements of the Zoning Code have been met.

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## **CHAPTER 2 ADMINISTRATION**

The intent is to set forth the powers and duties of the Enforcing Officer, the Planning and Zoning Commission and the Village Council with respect to the administration of the provisions of this Zoning Code.

### **SECTION 2.1 – GENERAL PROVISIONS**

The formulation, administration and enforcement of the Zoning Code is hereby vested in the following offices and bodies within the Village of Arcanum government:

- A. Enforcing Officer
- B. Planning and Zoning Commission
- C. Village Council
- D. Board of Zoning Appeals
- E. Village Solicitor

### **SECTION 2.2 – ENFORCING OFFICER**

The mayor, or his/her designee, shall be the Enforcing Officer of this Zoning Code. For the purpose of this Zoning Code, the Enforcing Officer shall have the following duties:

#### **A. Responsibilities Of The Enforcing Officer:**

1. Enforce the provisions of this Zoning Code and interpret the meaning and application thereof.
2. Respond to questions concerning applications for amendments to the Official Zoning District Map.
3. Issue Zoning Permits as provided by this Zoning Code and keep a record with notations of any special conditions involved.
4. Act on all applications upon which the Enforcing Officer is authorized to act by the provisions set forth in this Zoning Code within twenty-one days or notify the applicant in writing of the disapproval of such application and reasons therefore. Failure to notify the applicant of such refusal or disapproval within twenty-one days shall entitle the applicant to submit the request to the BZA.
5. Conduct inspections of buildings and uses of land to determine compliance with the Zoning Code and, in the case of violation, provide written notice to the property owner specifying the nature of violation and the ordering of corrective action.
6. Maintain an up-to-date Zoning District Map which shall be kept on permanent display in the Village Administration Office.

7. Maintain permanent and current records required by this Zoning Code including, but not limited to, zoning permits, inspection documents and records of all variances, amendments and special uses.
8. Make such records available for the use by Village Council, Planning & Zoning Commission, BZA and the public.
9. Review and approve site plan pursuant to the Zoning Code.
10. Determine the existence of any violations of this Zoning Code or initiate other such administrative or legal action, as needed, to address such violations.

## **SECTION 2.3 – PLANNING & ZONING COMMISSION**

Pursuant to ORC 713.01 and Ordinance 2020-32, the Village of Arcanum Council established the Planning and Zoning Commission.

### **A. Membership And Organization**

The Planning and Zoning Commission is established of five members consisting of the Mayor, one member of Council, two citizens of the Village and one member of the public at-large. Positions are appointed by the Mayor with Council approval. The terms for each member shall be six years, except that the term of one of the members of the first commission shall be for four years and one for two years. All members serve without compensation.

The Planning & Zoning Commission shall elect its own officers annually and shall adopt the rules necessary to conduct its affairs. Meetings shall be held at the call of the chairperson at such a time as the Commission may determine. Three members of the Planning & Zoning Commission shall constitute a quorum in order to conduct business. When operating under a quorum, all votes must be unanimous. The chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel to the attendance of witnesses. All meetings and records shall be open to the public.

### **B. Powers And Duties (Pursuant To ORC 713.02-713.10)**

The Planning and Zoning Commission shall:

1. Make plans and maps of the whole or any portion of the municipal corporation, and any land outside thereof, which, in the opinion of the Commission, is related to the planning of the municipal corporation, and make changes in such plans or maps when it deems advisable. Such maps or plans shall show the Commission's recommendations for general location, character and extent of streets, alleys, ways, viaducts, bridges, playgrounds and any other public grounds, ways and open spaces and shall then be sent to Council.

2. Recommend the general location of public buildings and other public property; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes.
3. Recommend the removal, relocation, widening, narrowing, vacating, abandonment, change of use of or extension of such public ways, grounds, open spaces, buildings, property, utilities or terminals.
4. Be presented any amendment or change in the number, shape, area or regulations of or within any district, but no such amendment or change shall become effective unless the proposal is first submitted to the Planning Commission for approval or disapproval or suggestions and the Commission is allowed a reasonable time, not less than thirty days, for consideration and report to Council for final approval.

With regard to the systemic planning of the municipal corporation, the Planning and Zoning Commission may:

1. Frame and adopt a plan for dividing the municipal corporation or any portion thereof into zones or districts, representing the recommendations of the Commission, in the interest of the public health, safety, convenience, comfort, prosperity or general welfare for the limitations and regulation of height, bulk and location including percentage of lot occupancy, set back building lines and area and dimensions of yards, courts and other open spaces and the uses of buildings and other structures and of premises in such zones or districts.
2. Make recommendations to Public Officials concerning the general location, character and extent of any such public ways, grounds, open spaces, buildings, property utilities or terminals.
3. From time to time, adopt and publish any part thereof, and such part shall cover one or more major sections or divisions of the municipal corporation or one or more of the functional matters to be included in the plan.
4. From time to time amend, extend or add to the plan.
5. Accept, receive and expend funds, grants and services from the federal government or its agencies, from departments, agencies and instrumentalities of the state or any adjoining state or from one or more counties of this state or any adjoining state or from any municipal corporation or political subdivision of this or any adjoining state, or from civic sources, and contract with respect thereto, either separately or jointly or cooperatively and provide such information and reports as may be necessary to secure financial aid.
6. Control, preserve and care for historical landmarks; control, in the manner provided by the Zoning Code, the design and location of statuary and other works of art, which are the property of the municipal corporation; control the removal, relocation and alteration of any such works; and



control the design of harbors, bridges, viaducts, street fixtures and other public structures and appurtenances.

7. Make recommendations to the Village Council or to any corporations or individuals in such municipal corporation or the territory contiguous thereto, concerning the location of any buildings, structures or works to be erected or constructed by them.
8. Be authorized by the Village Council to control the height, design and location of buildings.
9. Control, appoint or employ such architects, engineers and other professional services and may appoint such clerks, draftsmen and other subordinates as necessary for the performance of its functions. The expenditures for such service and employments shall be within the amount appropriated for such persons by the legislative authority of the municipal corporation and shall provide for the expenses and accommodations necessary for the work of the Commission.

#### **C. Recommendation For Approval/Disapproval**

Whenever the Commission makes a preliminary plan of the municipal corporation, or any part thereof, no public building or structure, streets, parkway, park, playground, public ground, bridge or other public way, grounds, works or utility, whether publicly or privately owned, or a part thereof, shall be constructed or authorized to be constructed in the municipal corporation or planned portion thereof unless the location, character and extent thereof is recommended by the Planning and Zoning Commission.

1. In the case of disapproval, the Commission shall communicate its reasons to the Legislative Authority (Council) and to the head of the department of which has control of the construction of the proposed improvement of utility.
2. The Legislative Authority (Council), by a vote of not less than two-thirds of its members and of such department head, together may overrule such disapproval.
3. The narrowing, ornamentation, vacation or change in the use of streets and other public ways, grounds and places shall be subject to similar approval, and disapproval may be similarly overruled.

### **SECTION 2.4 – VILLAGE COUNCIL**

#### **A. Powers And Duties**

The powers and duties of the Village Council pertaining to the Zoning Code are as follows:

1. Approve the appointments of members to the Planning Commission made by the Mayor.

2. Approve the appointments of members to BZA made by the Mayor.
3. Initiate or act upon recommended amendments to the Zoning Code or Official Zoning Map brought forth by the Planning and Zoning Commission.
4. Act upon a recommendation of the Planning and Zoning Commission provided that such legislative action is passed by a vote of not less than three-fourths of the Village Council.

## **CHAPTER 3**

### **PERMIT REQUIREMENTS, ENFORCEMENT AND PENALTY**

The intent is to stipulate the procedures to be followed in obtaining permits, and other legal or administrative approvals under this Zoning Code.

#### **SECTION 3.1 – ZONING PERMIT REQUIREMENTS**

No building or other structure shall be erected, moved, added to, or structurally altered; nor shall any building, structure, or land be established or changed in use; nor shall any accessory use, fence, sign, or swimming pool be installed without a permit issued by the Enforcing Officer. No zoning permit shall be issued except in conformity with the provisions of this Zoning Code.

##### **A. Application Requirements For Zoning Permits**

An application for a zoning permit shall be made in writing and signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire in one (1) year unless work has been substantially completed. At a minimum, the application shall contain the following information, if applicable to a particular use, and be accompanied by all required fees:

1. Name, address, and telephone number of the owner.
2. Legal description of the property or the lot number of the property.
3. Existing use.
4. Proposed use.
5. Zoning District.
6. Sketched plans showing the actual dimensions, building height and shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration(s).
7. Number of off-street parking spaces or loading berths, and their layout.
8. Location and design of access drives.
9. Number of dwelling units.
10. Signage information, if applying for a Zoning Permit for a sign.
11. If applicable, the approved Conditional Use Permit, Temporary Use Permit, or Variance.
12. Such other documentation as may be necessary to determine conformance with this Zoning Code.

##### **B. Approval Of Zoning Permit**

Within thirty (30) days after the receipt of an application, the Enforcing Officer shall either approve or disapprove the application in accordance with the provisions of this Zoning Code. All zoning permits shall be conditional upon

substantial completion within one (1) year. One copy of the permit shall be returned to the applicant by the Enforcing Officer after the Enforcing Officer has marked such copy either as approved or disapproved and attested to the same by the Enforcing Officer's signature on such copy. One copy of plans, similarly marked, shall be retained by the Enforcing Officer. The Enforcing Officer shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the activity is in conformance with the provisions of this Zoning Code.

## **SECTION 3.2 – ENFORCEMENT**

### **A. Construction And Use To Be As Provided In Applications, Plans And Permit**

Zoning permits issued on the basis of plans and applications approved by the Enforcing Officer authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction shall be permitted. Use, arrangement, or construction contrary to that authorized shall be deemed a punishable violation of this Zoning Code.

### **B. Entry And Inspection Of Property**

The Enforcing Officer is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purpose of enforcing the provisions of this Zoning Code. Prior to seeking entry to any property or structure for such examination or survey, the Enforcing Officer shall attempt to obtain the permission of the owner or occupant to inspect the premises. If such permission is denied or cannot be obtained, the Enforcing Officer shall request the assistance of the Solicitor in securing a valid search warrant prior to entry.

### **C. Stop Work Order**

Subsequent to the Enforcing Officer's determination that work is being done contrary to this Zoning Code, the Enforcing Officer shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the Enforcing Officer, shall constitute a punishable violation of this Zoning Code.

### **D. Zoning Permit Revocation**

The Enforcing Officer may issue a revocation notice to revoke a permit or administrative approval which was issued contrary to this Zoning Code or based upon false information or misrepresentation in the application.

#### **E. Complaints Regarding Violations**

Whenever a violation of this Zoning Code occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall fully state the causes and basis thereof and shall be filed with the Enforcing Officer. The Enforcing Officer shall properly record such complaint, investigate it and take action thereon as provided by this Zoning Code.

#### **F. Notice Of Violation**

Whenever the Enforcing Officer or the Officer's agent determines that there is a violation of any provision of this Zoning Code, a warning letter shall be issued and shall serve as a notice of violation. Such notice shall:

1. Identify the violation.
2. Include a statement of the reason or reasons why it is being issued and refer to the sections of this Zoning Code being violated.
3. State the time by which the violation shall be corrected.

Service of the notice of 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 suitable age and discretion; or
2. Certified mail deposited in the United States Post Office addressed to the person or persons responsible at their last known address. If a certified mail envelope is returned with an endorsement showing that the envelope is refused or is unclaimed, then service shall be sent by ordinary mail, and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Enforcing Officer. Service shall be deemed complete when the fact of mailing is entered of record.

### **SECTION 3.3 – PENALTIES AND FINES**

It shall be unlawful to erect, establish, locate, construct, reconstruct, enlarge, change, move, repair, maintain, or structurally alter any building, structure, or land in violation of any provision of this Zoning Code or any amendment thereto. Subject to the provisions below, any person, firm, or corporation who violates this Zoning Code or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$150.00 and shall pay all costs and expenses involved in such case. Each day such violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this Section. Any person, firm, or corporation, who, within one (1) year, has previously been convicted of a violation of this Zoning Code or any amendments thereto, shall be guilty of a misdemeanor of the 4<sup>th</sup> degree and be subject to a fine of not more than \$250.00 and incarceration of not more than thirty (30) days,

together with all costs and expenses. Each day such subsequent violation continues after receipt of a violation notice shall be considered a separate offense.

Nothing in this Zoning Code shall be deemed to abolish, impair, or prevent other additional remedies as provided by law. In the event of a violation of any provision or requirement of this Zoning Code, or in the case of an imminent threat of such violation, the Enforcing Officer, the Village Solicitor, or the owner of any neighboring property who would be especially damaged by such violation, may, in addition to other recourses provided by law, institute mandamus, injunction, abatement, or other appropriate actions to prevent, remove, enjoin, or terminate such violation.

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## **CHAPTER 4 AMENDMENTS**

Whenever the public necessity, convenience, general welfare or good zoning practices require, Council may, by ordinance, after receipt of a recommendation thereon from the Planning & Zoning Commission, and subject to procedures provided by law, amend, supplement, change, or repeal the regulations, restrictions, and boundaries or classification of property in the manner prescribed by ORC 713.07 thru 713.12.

### **A. Amendments To This Ordinance May Be Initiated In One Of The Following Ways:**

1. By referral of a proposed amendment by Village Council to the Planning Commission.
2. By the adoption of a motion by the Planning & Zoning Commission submitting the proposed amendment to Village Council.
3. By the filing of an application with the Planning & Zoning Commission by at least one (1) owner of property (or his/her agent) within the area proposed or affected by said amendment.

Each application for a proposed amendment shall be accompanied by a fee set forth and approved by the Village of Arcanum. Application fees are non-refundable.

Requests for a zoning amendment concerning any parcel of property, portion thereof or use thereof shall not be accepted for consideration more than once during any consecutive twelve-month period.

### **B. The Village Planning & Zoning Commission And Village Council Shall Favorably Consider An Application For An Amendment To The Zoning Code Text Or To The Official Zoning District Map, Only If The Request Meets The Following Conditions.**

1. Manifest error in the original Zoning Code text and/or designations on the Official Zoning District Map.
2. Substantial change in area conditions.
3. Legitimate requirement for additional land area for the particular zoning district.

### **C. Application Requirements:**

1. Zoning Map Amendments:

An application for amendment shall be submitted by the applicant to the Zoning Enforcement Officer and shall contain, at a minimum, the following information:

- a. Name, address, and phone number of the applicant.

- b. Proposed amendment to the text or legal description of the property affected.
- c. Present use and district.
- d. Proposed use and district.
- e. A statement of the reason(s) for the proposed amendment.
- f. A map drawn to scale showing property lines, streets, existing and proposed zoning.
- g. A list of all property owners within the 200 feet, contiguous to, and directly across the street from the parcel(s) proposed to be rezoned and their address as appearing on the Darke County Auditor's current tax list, as verified by Village Administration. NOTE: The requirement for addresses may be waived when more than ten (10) parcels are proposed to be rezoned.
- h. A statement as to how the proposed amendment will impact adjacent and proximate properties.
- i. A statement of the relationship of the proposed use to adjacent property and land use.
- j. Any other information as may be requested regarding the property, proposed use, or surrounding area as may be pertinent to the application or required for appropriate action by the Planning Commission.

## 2. Zoning Text Amendments:

Applications for amendments proposing to change, supplement, amend, or repeal any portion(s) of this Zoning Code, other than the Official Zoning Map, shall contain at least the following information:

- a. The name, address, and phone number of the applicant.
- b. The proposed amendment
- c. A statement of the reason(s) for the proposed amendment.
- d. A statement explaining the ways in which the proposed amendment relates to the comprehensive plan.

### **D. Recommendation By Planning & Zoning Commission**

Within 60 days from the receipt of the proposed amendment, the Planning & Zoning Commission shall make one of the following recommendations to Council:

- 1. Recommend that the amendment be granted as requested; or
- 2. Recommend a modification of the amendment as requested; or
- 3. Recommend that the amendment be denied.

The written recommendation from the Planning & Zoning Commission shall indicate the specific reason(s) upon which the recommendation is based,



including the basis for their determination that the proposed amendment is or is not consistent with the comprehensive plan.

**E. Village Council Action:**

Council shall consider the following criteria before taking any final action on the proposed amendment:

1. Compatibility of the proposed amendment with the zoning and use of adjacent land, and with any land use/comprehensive plans adopted by the Village.
2. Effect of the adoption of the proposed amendment on motor vehicle access, traffic flow, storm drainage and public infrastructure in the area.
3. Effect of the adoption of the proposed amendment upon the public health, safety and general welfare of the adjacent properties and other residents of the Village.

Affirmative/ Adverse recommendations: When Council receives an affirmative or adverse recommendation from the Planning and Zoning Commission on a proposed amendment, the following shall be followed:

1. Within 60 days of the receipt of the recommendation from the Planning & Zoning Commission on a proposed amendment, a public hearing shall be held in accordance with ORC 713.12. Notice of the public hearing shall be given by Village Council by at least one publication in one or more newspapers of general circulation in the Village. Said notice shall be published at least 30 days before the date of the hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.
2. Notice to Property Owners: If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail at least 20 days before the day of the public hearing, to all owners of property within 200 feet or contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the application. Notice should also set forth the time and place of the public hearing and a summary of the proposed amendment. The failure to deliver the notification as provided in this Section shall not invalidate any such amendment.
3. Within 30 days after the required public hearing, the Village Council shall:
  - a. Adopt the recommendation or some modification thereof, of the Planning & Zoning Commission with an affirmative vote of at least a majority of the membership of Village Council.
  - b. In the event the Village Council denies or modifies the recommendation of the Planning & Zoning Commission, it must do

so by not less than three-fourths of the full membership of Village Council.

No legislation concerning such Zoning amendments shall be passed unless it has been fully and distinctly read on three different days, with the exception that any such legislation may be declared an emergency if three-fourths of the members of the Village Council vote to dispense with the three-reading rule.

When an amendment is adopted by Village Council pertaining to a change on the Official Zoning Map, such change shall be incorporated onto the Map by reference to the Ordinance number and the date of passage within thirty (30) days.

After action is taken by Village Council, the applicant, or other party adversely affected by the action, may seek relief through the Court of Common Pleas. Such appeal must be filed within thirty days from the date of the action by Village Council.

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## **CHAPTER 5 NONCONFORMITIES**

Within the districts established by this Zoning Code or amendments that may later be adopted there exist lots, structures and uses of land and structures which were lawful before this Zoning Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Zoning Code or future amendment, it is the intent of this Zoning Code to permit these nonconformities to continue so long as it remains otherwise lawful or they are removed.

### **SECTION 5.1 – GENERAL PROVISIONS**

The following provisions shall apply:

#### **A. Existing Land Or Buildings**

1. Any use of land or building(s) existing on the effective date of this Zoning Code may be continued, even though such use does not conform to the provisions herein, so long as such use was in conformity with the zoning code in effect in the Village at the time that the use or structure was established. No nonconforming building, structure, or use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as specifically provided in this Zoning Code.

#### **B. Construction Commenced**

1. Any property purchased or acquired in good faith for any nonconforming use prior to the adoption of this Zoning Code, upon which property the work of changing, remodeling or construction of such nonconforming use has been legally commenced at the time of adoption of this Zoning Code, may be used for the nonconforming use for which such changing, remodeling or construction was undertaken, provided that such work is completed within two (2) years from date of adoption of this Zoning Code or amendment thereto making said use nonconforming.

#### **C. Exceptions To The Regulations On Nonconformities**

1. Isolated commercial uses in residential areas with a record of performance over the years have proven to be the exception to the general rule. Certain commercial uses, although generators of blight, should be given recognition for such performance and proven service to the neighborhood. Examples of such include:
  - a. The use has been in continuous operation for ten years or more.
  - b. The building or structure is in sound, well-maintained condition.
  - c. Such use has no more than four full-time employees.
  - d. The structures containing such uses continue to be well maintained, yards kept clean and refuse kept in enclosures so as to be out of sight from adjoining residential properties.

2. No application for a permit by exception shall be considered until proof of compliance with the requirements listed in items a-d above have been furnished to the Enforcing Officer.

#### **D. Substitutions**

The Enforcing Officer may allow the nonconforming use of a building or structure to be changed to another nonconforming use of the same or of a more restricted classification, provided no structural alterations except those required by law or ordinance are made. No additional signs or sign area intended to be viewed from off the premises shall be allowed for any nonconforming business which would be prohibited in the district involved.

#### **E. Extension**

No nonconformity shall be enlarged, extended, reconstructed, or structurally altered, except as follows:

1. No nonconforming building or structure shall be moved in whole or in part to any other location unless such building, structure, and yard requirement setbacks are made to conform to all regulations of the district in which such building or structures to be located.
2. Such uses are declared by this Zoning Code to be incompatible with permitted uses in the districts involved. It is further the intent of this Zoning Code that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except by application to the Enforcing Officer for approval of specific plans.
3. Expansions of existing nonconforming uses, where allowed by the Enforcing Officer may be made only on property owned by the applicant as of the effective date of this Zoning Code.
4. Any residential structure which is nonconforming due to the fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered provided it meets the requirements of the adjacent or most proximate residential district.

#### **F. Discontinuance**

A nonconforming use which has been abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned whenever any one of the following conditions exist:

1. When the use has been voluntarily discontinued for a period of two (2) year; or
2. when the nonconforming use has been replaced by a conforming use.

#### **G. Damage and/or Destruction Of A Nonconforming Building Or Use**

When a building or structure, the use of which does not conform to the provisions of this Zoning Code, is damaged by fire, explosion, act of God, or

the public enemy, it may be restored or rebuilt and continued in such nonconforming use, provided that the restoration or rebuilding is commenced within six (6) months of the time of damage, that construction is completed within one (1) year, and that such restoration or rebuilding would not extend or expand the existing footprint, and cannot adversely affect or interfere in anyway, with the public health, welfare and safety of the surrounding residents.

#### **H. Maintenance And Repair**

Nothing in this Chapter shall be deemed to prevent normal maintenance and repair of a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use as follows:

1. When required by law.
2. To convert to a conforming use.
3. A building or structure containing residential nonconforming uses may be so altered as to improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the district in which such building is located.

#### **I. Nonconforming Lots Of Record**

In any district in which single-family dwellings are permitted, notwithstanding other limitations imposed by other provisions of this Zoning Code, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Code subject to the following conditions: If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Zoning Code, and if all or part of the lots do not meet the requirements for lot width and area as established by this Zoning Code, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Code, and no portion of such parcel shall be used or sold which does not meet lot width and area requirements established by this Zoning Code, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Zoning Code.

#### **J. Violations Not Rendered Nonconforming**

A use, structure or lot which was in violation of the provisions of the ordinance which this Zoning Code amends shall not be validated or become nonconforming upon the adoption of this Zoning Code. Nothing in this Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

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## **CHAPTER 6**

### **BOARD OF ZONING APPEALS**

The Board of Zoning Appeals is hereby created in accordance with Ohio Revised Code 713.11.

#### **SECTION 6.1 – MEMBERSHIP, ORGANIZATION, POWERS AND DUTIES**

##### **A. Membership & Organization**

The Board of Zoning Appeals ("BZA") shall consist of five members, appointed by the Mayor and approved by Council. Council may remove any member of such Board for cause upon written charges and after public hearing. Vacancies shall be filled by the appointing authority for the unexpired term of the member affected. Members of the BZA shall serve five-year terms and shall be eligible for reappointment. All members serve without compensation. The BZA shall elect its own officers, (chairperson, vice-chair, and recording secretary) annually and shall adopt the rules necessary to conduct its affairs. Meetings shall be held at the call of the chairperson at such a time as the Board may determine. Four members of the BZA shall constitute a quorum for the conducting of business. The chairperson, or in his absence, the acting chairperson, may administer oaths and compel to the attendance of witnesses. All meetings and records shall be open to the public. The concurring vote of two-thirds of the BZA shall be necessary to reverse any order, requirement, decision or determination of the Enforcing Officer, or to decide in favor of the applicant on any matter upon which they are required to pass under the terms of this Zoning Code.

##### **B. Powers And Duties**

1. To hear and decide appeals, only in such cases where it is alleged there is error in any order, requirement, decision or determination made by the Enforcing Officer in the enforcement of this Zoning Code.
2. Determination of Similar Uses. To determine if uses not specifically mentioned in this Zoning Code are similar to uses permitted within a district.
3. Conditional Use Permits. To hear and decide only such conditional uses as the BZA is specifically authorized to act on under the terms of this Zoning Code.
4. The BZA shall have all the duties and powers prescribed by law and by this Zoning Code to authorize variances upon appeal from the provisions of this Zoning Code when there are unnecessary hardships otherwise resulting from the enforcement of the Zoning Code.



5. The BZA may prescribe appropriate conditions and safeguards to allow for conformity with this Zoning Code. Violations of such conditions and safeguards, when such are made part of the terms under which a variance is granted, shall be punishable under Chapter 3, Section 3.3 within this Zoning Code.
6. In approving or disapproving any petition or other matter brought forth, the BZA shall act by resolution or motion and shall keep minutes of its proceedings showing the vote of each question, or in the alternative, the facts of each appeal considered by the BZA and the section of this Zoning Code, where applicable. Accurate written meeting minutes and audio recording of meeting shall be kept of all BZA meetings, with a copy of all minutes forwarded, within two weeks of each meeting, to the Enforcing Officer and retained in the Administration Building.
7. The Board of Zoning Appeals shall schedule public hearings, within thirty days upon receipt of said application. Notice of the public hearing shall be given by at least one publication in one or more newspapers of general circulation in the Village. Said notice shall be published at least ten (10) days before the date of the hearing. The published notice shall set forth the time, date, location and a summary of the appeal. Additionally, written notice of said hearing shall be mailed by first-class mail to property owners abutting or within 200 feet of said property in question at least ten (10) days prior to the public hearing and such notice shall contain the time, date, location and summary of the appeal.

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## **CHAPTER 7**

### **APPEALS, CONDITIONAL USES & VARIANCES**

Any property owner, government officer, department, board or bureau may apply for a conditional use permit, a variance or exception from the strict applications of the terms of this Zoning Code, to the BZA, subject to the limitations contained in this Chapter.

#### **SECTION 7.1 – APPEALS**

Within twenty (20) days after a decision is made by the Enforcing Officer, an appeals application may be submitted to the Enforcing Officer specifying the grounds upon which the appeal is being submitted. The Enforcing Officer within seven (7) days, shall forward all submitted documentation for such appeal to the BZA for review.

An appeal of a ruling of the Enforcing Officer shall stay all proceedings, unless the Enforcing Officer certifies that, by reason of facts pertaining to the matter in question, a stay in his/her opinion would cause imminent peril to life and property. When such certification is made, proceedings shall not be stayed except by a restraining order granted by the BZA or by the Court of Common Pleas.

#### **SECTION 7.2 – APPLICATION**

An Application for a Conditional Use or Variance shall be submitted indicating the following:

- A. Name, address and phone number of the applicant.
- B. Legal description of property.
- C. Current zoning district.
- D. State the grounds on why it is being requested.
- E. Description of existing and proposed uses.
- F. A plan of all buildings, parking and loading areas, traffic circulation, utilities and such other information as the Enforcing Officer may require to determine if the proposed conditional use meets the intent and requirements of this Zoning Code.
- G. A statement evaluating the effects on adjoining property, the effect of such elements as noise, glare, odor, light, fumes and vibration on such property, and an evaluation of the general compatibility of the proposed use with adjacent and other properties within the zoning district.
- H. The names and addresses of all property owners within 200 feet, contiguous to, and directly across the street from the property, as appearing on the Darke County Auditor's current tax list.
- I. Such other pertinent information as requested by the Enforcing Officer regarding the property, proposed use, or surrounding area.

Each application for conditional use or variance shall be accompanied by a fee set forth and approved by the Village of Arcanum. Application fees are non-refundable.

### **SECTION 7.3 – CONDITIONAL USE**

Under some unusual circumstances, a use may more intensely affect an area than those uses permitted in the zoning district in which it is located, and may nonetheless be compatible with permitted uses, if that use is properly controlled and regulated. The BZA may grant conditional approval for use of the land, buildings, or other structures and may allow such a use to be established where unusual circumstances exist and where the conditional use will be consistent with the general purpose and intent of this Zoning Code.

Applications by a property owner for a conditional use concerning any parcel of property, portion thereof or use thereon, must meet all setback requirements and shall not be accepted for consideration more than once during any consecutive twelve-month period.

#### **A. Standards For Conditional Use:**

In addition to the specific requirement for conditionally permitted uses as specified in this Section, the BZA shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location meets all of the following requirements:

1. The use is a conditional use as established under the provisions of this Zoning Code.
2. The use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
3. The use will not be hazardous or disturbing to existing or future neighboring uses.
4. The use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
5. The use will not involve activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
6. The use will otherwise be in conformance with all other sections of this ordinance and consistent with the objectives of this Zoning Code.

## **B. Granting Conditional Use:**

The BZA shall determine:

1. If it has authority to grant said request.
2. That the granting of the conditional use will not adversely affect the neighborhood in which the conditional use is to be located.
3. In granting any conditional use, the BZA may prescribe appropriate conditions and safeguards in conformity with the provisions of this Zoning Code. Violations of such conditions and safeguards, when such are made part of the terms under which a conditional use is granted, shall be deemed a violation of this Zoning Code and punishable under Chapter 3, Section 3.3.
  - a. Upon the granting of a Conditional Use, said permit is subject to annual review by the Enforcing Officer. Said permit shall automatically expire if the conditional permitted use has not been instituted or utilized within one (1) year of the date of issuance.

## **SECTION 7.4 – VARIANCE**

The BZA shall have the power to authorize, upon appeal in specific cases, filed as hereinafter provided, such variances from the provision or requirements of this Zoning Code that would result in practical difficulty and unnecessary hardship, as will not be contrary to the public interest. Such variances shall be granted only in cases of exceptional circumstances.

### **A. Standards for Variance:**

No variance from the strict application of any provision of this Zoning Code shall be granted until the BZA concurs that all of the following exist:

1. Unique conditions and physical circumstances exist in cases of exceptionally irregular, narrow or shallow lot sizes or shapes or exceptional topographical or other physical conditions specific to the land or building for which the variance is sought, and such conditions do not apply generally to land or buildings in the neighborhood or district in which the property is located.
2. Due to such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Zoning Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. Special conditions and circumstances do not result from the actions of the applicant, his agents or prior property owners.
4. Proof of hardship created by the strict application of this Zoning Code is demonstrated. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created nor can it be established on this

basis by one who purchases with or without knowledge of the restrictions. It must result from the application of this Zoning Code and be suffered directly by the property in question. Evidence of variances granted under similar circumstances need not be considered.

5. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property nor be detrimental to the public welfare.
6. Such proposed variance will not constitute a change, including a variation in use, of the Official Zoning Map.
7. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in question.

#### **B. Granting Variances:**

1. Variances shall be granted only in cases of exceptional conditions involving exceptional physical conditions of the land whereby strict application of such provisions or requirements would result in practical difficulty and unnecessary hardship that would deprive the owner of the reasonable use of the land and buildings involved.
2. The BZA shall make a finding that the reasons set forth in the application are valid and justify granting said variance.
3. In granting any variance, the BZA may prescribe appropriate conditions and safeguards to allow for conformity with this Zoning Code. Violations of such conditions and safeguards, when such are made part of the terms under which a variance is granted, shall be punishable under Chapter 3, Section 3.3 within this Zoning Code.
  - a. If a variance is not acted upon within one (1) year, the variance permit shall expire.

#### **SECTION 7.5 – BZA PUBLIC HEARING/ RULING**

The Board of Zoning Appeals shall schedule a public hearing within thirty days upon receipt of said application. Ten (10) days prior to the scheduled hearing, the BZA shall provide notice containing the time, date, location and purpose of the public hearing in at least one newspaper of general circulation within the Village. Additionally, written notice of said hearing shall be mailed by first-class mail to property owners abutting or within two hundred (200) feet of said property in question at least ten (10) days prior to the public hearing and such notice shall contain the time, date, location and purpose of said hearing.

Within thirty (30) days after the public hearing, the BZA shall:

1. Approve the variance or conditional use, with findings in writing, that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure, or

that the approval of a conditional use will not adversely affect the neighborhood in which the conditional use is to be located; or

2. Approve the variance or the conditional use with supplemental conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when such are made part of their terms under which a conditional use or variance is granted, shall be punishable under Chapter 3 Section 3.3 within this Zoning Code; or
3. Deny the application for the variance or the conditional use with reasons in writing.

The BZA shall transmit a written copy of the decision setting forth the justifications for its decision therein to the Enforcing Officer who shall forward such copy to the applicant either in-person or by first-class mail.

The decision of the BZA shall not become final until the expiration of five (5) days from the date of entry of such order unless the BZA finds that the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

After action is taken by the BZA, the applicant, or other party adversely affected by the action, may seek relief through the Court of Common Pleas. Such appeal must be filed within thirty (30) days from the date of the action by the BZA. A copy of the notice of appeal shall be served on the Secretary of the BZA by the aggrieved party within seven (7) days from the date of filing of the appeal.

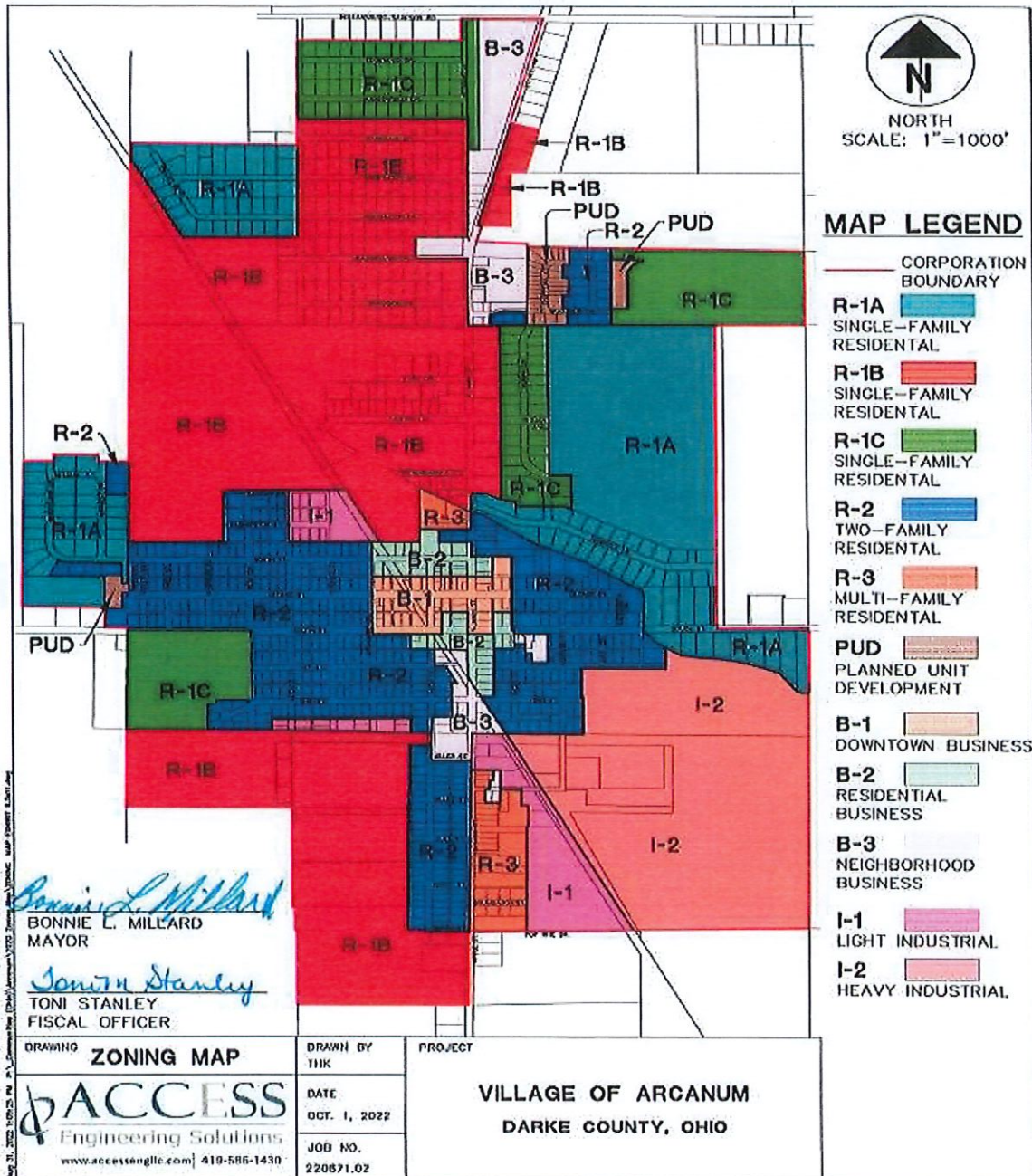
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## CHAPTER 8 ZONING DISTRICTS AND MAP

The intent of this Chapter is to establish zoning districts in order to realize the general purpose set forth in the Chapter 1 General Provisions of this Zoning Code, to provide for orderly growth and development, and to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts.

### SECTION 8.1 – OFFICIAL ZONING MAP



## **SECTION 8.2 – ESTABLISHMENT OF ZONING DISTRICTS**

The following zoning districts are hereby established for the Village of Arcanum, Ohio:

- A. R-1A      One Family Residential District
- B. R-1B      One Family Residential District
- C. R-1C      One Family Residential District
- D. R-2        Two Family Residential District
- E. R-3        Multi-Family Residential District
- F. PUD        Planned Unit Development
- G. B-1        Downtown Business District
- H. B-2        Residential District
- I. B-3        Neighborhood Business District
- J. I-1        Light Industrial District
- K. I-2        Heavy Industrial District
- L. FP        Floodplain District

## **SECTION 8.3 – OFFICIAL ZONING MAP CERTIFICATION**

- A. The boundaries of the zoning districts listed above are shown on the Official Zoning Map of the Village. This Map, together with all explanatory data thereon, including all changes thereof as hereinafter provided, shall be incorporated and made a part of this Zoning Code Ordinance.
- B. The Official Zoning Map shall be certified by the signature of the Mayor attested by the Clerk of Council. If, in accordance with the provisions of this Zoning Code, changes are made in district boundaries or other data portrayed on the Official Zoning Map, these changes shall be made on the Official Zoning Map within thirty (30) business days after the effective date of the amendment.
- C. The original and one copy of the Official Zoning Map are to be maintained and kept up to date, with one copy on public display in the Administration Office and accessible to the public, which shall be the final authority as to the current zoning status of lands, buildings, and other structures in the Village.

## **SECTION 8.4 – RULES FOR MAP INTERPRETATION**

- A. When definite distances in feet are not shown on the Official Zoning Map, the district boundaries on the Official Zoning Map are intended to be along existing street, alley, or property lines or extensions thereof, and if the exact location of such line is not clear it shall be determined by either supplemental detail drawings or rules of interpretation, adopted by the concurring vote of four members of the Planning and Zoning Commission.
- B. When the streets or alleys on the ground differ from the streets or alleys on the Official Zoning Map, the Planning and Zoning Commission may apply the district designation of the map to the property on the ground in such manner

as to conform to the intent and purposes of this Section in the judgment of said Commission.

## **SECTION 8.5 – INTERPRETATION OF DISTRICT BOUNDARIES**

The following rules shall be used to determine the precise location of any zoning district boundary unless such boundary is specifically indicated on the Official Zoning Map.

- A. Where district boundaries are so indicated as approximately following the centerlines of streets, or street right-of-way lines, such centerlines, street lines, or right-of-way lines shall be construed to be said boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or right-of-way lines, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.
- E. Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Village unless otherwise indicated.
- F. Where district boundaries are so indicated that they follow or approximately follow the limits of any municipal corporation, such boundaries shall be construed as following such limits.
- G. Whenever any street, alley, railroad right-of-way, or other public way is vacated by official action of the Village Council, the zoning district adjoining each side of such street, alley, railroad right-of-way, or public way shall automatically extend to the center of such vacated way and all area included in the vacation shall then be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all the vacated area. Any vacation of right-of-way or public way shall be subject to Ohio Revised Code Section 723.041 and the right of permanent easement of any utility located on, over, or under such vacated public way or part thereof shall continue.

## **SECTION 8.6 – ZONING UPON ANNEXATION**

When land is annexed to the Village, the same shall be zoned the same as the land that is contiguous within the Village and most closely in accordance with the existing use of the land already within the Village.

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## **CHAPTER 9 DISTRICT REGULATIONS**

### **SECTION 9.1 – COMPLIANCE WITH REGULATIONS**

The regulations for each district set forth by this Zoning Code shall be the minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- A.** No building, structure, or land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with all of the regulations specified for the district in which it is located.
- B.** Must be in conformance to off-street parking and off-street loading space regulations of the district in which the building or use is located.
- C.** In no case shall there be more than one main building on a lot.
- D.** Except as otherwise provided in this Zoning Code, no building or other structure shall be erected or altered as follows:
  - 1. To provide for greater height or bulk;
  - 2. To accommodate or house a greater number of families;
  - 3. To occupy a greater percentage of lot area;
  - 4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than required in its district, or in any other manner be contrary to the provisions of this Zoning Code.
  - 5. No structure intended or used for residential purposes or human occupancy may be constructed or moved to a site unless it is a minimum of one (1) foot above flood elevation, as defined by the flood plain map in Chapter 14.
  - 6. Any changes to color cosmetics to any dwelling or accessory structure will require prior approval from the Enforcing Officer to ensure harmony within the zoned district and not be detrimental to any other property values. All fees for color changes will be waived.
- E.** Except as otherwise provided in this Zoning Code, no yard or lot existing at the time of passage of this Zoning Code shall be reduced in dimension or area below the minimum requirements set forth in the district. Yards or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements set forth in the district.
- F.** This Zoning Code shall not repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law, ordinance, rules, or regulations

previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or premises. Where the provisions of this Zoning Code impose a greater restriction upon the use of buildings or premises, upon the height of buildings, or require larger lots or yards than are imposed or required by such existing provisions of law, ordinance, or such rules or regulations, the provisions of this Zoning Code shall control.

## **SECTION 9.2 – RESIDENTIAL DISTRICT CONDITIONS**

- A. No dwelling and accessory building, collectively, shall have a footprint of more than thirty percent (30%) of any lot.
- B. In all R-1 Districts, seventy-five percent (75%) of minimum floor area must be on the first floor of any multi-floor dwelling.
- C. In any Residential district, no structure intended or used for residential purposes or human occupancy may hereafter be constructed or moved to a site unless it is a minimum of one (1) foot above flood elevation.
- D. In any Residential district, if the dwelling is damaged by explosion, fire, act of God or the public enemy, the owner may rebuild provided that the original footprint is not changed.
- E. Whenever the frontage of one side of a block is more than forty percent (40%) developed at the time of the enactment of this Zoning Code, the required setback for new construction or alteration shall be the average of the established setbacks, provided this regulation shall not be so interpreted as to require a front yard of more than fifty feet.
- F. Junk / Salvage yards, as defined in Section 1.2, are prohibited in any Residential District.
- G. Mobile Homes, as defined in the Section 1.2, are prohibited in any Residential District.
- H. The owner or owners of a tract of land shall request a Conditional Use Permit to allow a Planned Unit Development.

### SECTION 9.3 – SUMMARY OF RESIDENTIAL LOT STANDARDS AND YARD REQUIREMENTS

	R-1A	R-1B	R-1C	R-2	R-3
<b>Minimum Lot Area (SQ FT)</b>	15,000	13,500	10,000	8,000	7,000
<b>Minimum Lot Width (FT)</b>	100	90	80	75	80
<b>Minimum Front Yard (FT)</b>	50	50	40	25	25
<b>Minimum Rear Yard (FT)</b>	30	30	30	30	30
<b>Minimum Side Yard (FT)</b>	10	6	6	6	6
<b>Total Side Yard (FT)</b>	25	15	15	15	15
<b>Maximum Height (Peak) of Dwelling</b>	30	30	30	30	35
<b>Minimum Floor Area Per Unit (SQ FT)</b>	1,350	1,100	1,000	1000	1000
<b>Maximum Lot Coverage</b>	30%	30%	30%	30%	30%

**FOR PUD LOT STANDARDS AND YARD REQUIREMENTS SEE  
CHAPTER 11**

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## **CHAPTER 10 RESIDENTIAL DISTRICTS**

### **SECTION 10.1 – R-1A, R-1B, R-1C – ONE FAMILY RESIDENTIAL DISTRICT**

These districts are the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density single-unit dwellings plus certain other facilities, which serve the residents living in the district. PUD housing may exist in any of the above residential zoning districts.

#### **A. Permitted Principal Uses**

1. One-family dwellings (R-1A, R-1B, R-1C), not including trailer or tent dwellings.
2. Churches and similar places of worship, provided such use is adjacent to a school or commercial area and/or access is by means of roads, designated as primary or secondary thoroughfares by definition of a major thoroughfare.
3. Public community center buildings, parks, playgrounds, and golf courses, except miniature golf courses.
4. Public and parochial elementary, junior, and senior high schools.
5. Resident housing in conjunction with churches or schools.
6. Any horticulture applications provided that they do not cause a nuisance.

#### **B. Accessory Uses**

1. Temporary buildings for uses incidental to construction work, which shall be removed upon completion or abandonment of the construction work.
2. Accessory uses in the R-1 District are those accessory buildings and accessory uses customarily incidental to the principal uses permitted in the district.

#### **C. Conditional Uses**

The following uses are allowed in any R-1 Residential District, provided a conditional use permit is granted by the BZA as provided in Chapter 7.

1. Recreation areas or buildings operated by membership clubs for the benefit of their members and not for gain, provided that any principal building, accessory building or out-of-doors swimming pool shall be located not closer than 200 feet from any adjoining land zoned for a residential use.
2. Public owned or leased buildings, public utility buildings, telephone exchanges, transformer stations and substations, except garages and maintenance buildings.
3. Private schools, institutions of higher learning and libraries.
4. Alternate Energy Generation Systems.

## **SECTION 10.2 – R-2 – MULTI-FAMILY RESIDENTIAL DISTRICT**

This district recognizes the existence of older residential areas of the Village where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of those structures and allow the owners to justify the expenditures for repairs and modernization. This district also allows the construction of new two-family residences where slightly greater densities are permitted.

### **A. Permitted Principal Uses**

1. Two-family dwellings (R-2), not including trailer or tent dwellings.
2. Churches and similar places of worship, provided such use is adjacent to a school or commercial area and/or access is by means of roads, designated as primary or secondary thoroughfares by the definition of a major thoroughfare.
3. Public community center buildings, parks, playgrounds, and golf courses, except miniature golf courses.
4. Public and parochial elementary, junior, and senior high schools.
5. Resident housing in conjunction with churches or schools.
6. Nursery schools, provided the minimum state and local governing agency standards set forth are met for all such nursery schools (ORC 5101:2-12-11).
7. Any horticulture applications provided that they do not cause a nuisance.

### **B. Accessory Uses**

1. Temporary buildings for uses incidental to construction work, which shall be removed upon completion or abandonment of the construction work.
2. Accessory uses in the R-2 District are those accessory buildings and accessory uses customarily incidental to the principal uses permitted in the district.

### **C. Conditional Uses**

The following uses are allowed in any R-2 Residential District, provided a conditional use permit is granted by the BZA as provided in Chapter 7.

1. Recreation areas or buildings operated by membership clubs for the benefit of their members and not for gain, provided that any principal building, accessory building or out-of-doors swimming pool shall be located not closer than 200 feet from any adjoining land zoned for a residential use.
2. Public owned or leased buildings, public utility buildings, telephone exchanges, transformer stations and substations, except garages and maintenance buildings.
3. Private schools, institutions of higher learning and libraries.
4. Alternate Energy Generation Systems.

## **SECTION 10.3 – R-3 – MULTI-FAMILY RESIDENTIAL DISTRICT**

This District provides for medium density residential areas of the Village that may serve to separate areas of more intense use from areas of lower intensity of uses. This district allows for the construction of apartment buildings and related uses. The maximum gross density per acre shall be ten (10) units.

### **A. Permitted Principal Uses**

Permitted uses in R-3 Districts:

1. Those principal uses permitted in R-2
2. Single Family Dwellings
3. Two Family Dwellings
4. Multi-family Dwellings

### **B. Accessory Uses**

1. Temporary buildings for uses incidental to construction work, which shall be removed upon completion or abandonment of the construction work.
2. Accessory uses in the R-3 District are those accessory buildings and accessory uses customarily incidental to the principal uses permitted in the district.

### **C. Conditional Uses**

The following uses are allowed in any R-3 Residential District, provided a conditional use permit is granted by the BZA as provided in Chapter 7.

1. Those conditional uses permitted in R-2 Districts
2. Public libraries
3. Convalescent or nursing homes
4. Dormitories and group housing
5. Fraternities, sororities, clubs, lodges, social or recreational buildings or properties not for profit
6. Tourist homes
7. Motels
8. Hospitals, clinics and sanitariums for human care
9. Mortuaries
10. Churches and similar places of worship
11. Parish houses in conjunction with churches or schools
12. Public and parochial schools
13. Public community center buildings, parks, playgrounds and golf courses
14. Offices of surgeons, physicians, dentists and other similar professional persons concerned with the community health and medical treatment of persons
15. Offices of architects, engineers and artists

16. Offices in which the personnel will be employed for work in executive, administrative, legal, writing, clerical, stenographic, accounting, insurance or similar enterprises
17. Alternate Energy Generation Systems.

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## **CHAPTER 11 PLANNED UNIT DEVELOPMENT (PUD)**

The intent of this Chapter is to permit and encourage construction of residential, business, and industrial areas within the Village of Arcanum, and to promote a development pattern in harmony with the land use, density, transportation and community facility objectives of the Village of Arcanum. A Planned Unit Development shall include comprehensive and detailed plans, including streets, utilities, lots, building sites, site plans, and design principles for all buildings located within the unified controlled land. Development may be a single or a series of programmed development operations including all lands and buildings, with a program for provision, operation and maintenance of the areas, improvements, and facilities necessary for common use by the occupants of the development.

### **SECTION 11.1 – PUD DISTRICTS (RESIDENTIAL, BUSINESS, INDUSTRIAL)**

**R-PUD – Residential** – This district provides for residential developments containing a mixture of single and multiple family use with a variety of housing densities.

**B-PUD – Business** – This district provides for areas of mixed use where a single integrated development contains a combination of residential, business and/or community uses.

**I-PUD – Industrial** – This district provides for areas of mixed use where a single integrated development contains a combination of residential, industrial and/or community uses.

All PUD Districts will need to apply for a Conditional Use Permit if an alternate energy source will be installed.

Conditional Use Permits shall only be granted if all applicable procedures have been followed and regulations have been met pursuant to Chapter 7 Section 7.1 and Chapter 17 Development Plan Review.

#### **A. General Provisions**

1. **Pre-Application** – It is recommended that the developer meet with the Zoning Enforcement Officer and Planning & Zoning Commission prior to the submission of the development plan in order to preliminarily and informally discuss the purposes of this section and criterion contained herein. In doing so, the developer may also become familiar with the processes and other provisions of this Zoning Code as well as the drainage, sewer and water system within the Village.
2. Permitted uses within the zoning districts may be combined in the PUD District provided that:
  - a. The proposed locations of non-residential uses are compatible with the design of the overall tract.

- b. It will not create an adverse impact on adjacent property.
  - c. Any exceptions from standard district requirements including, but not limited to, standard lot and yard requirements, is warranted by the design and other amenities incorporated in the final development plan.
  - d. The locations of such uses are specified in the preliminary and final development plans.
3. The amount of land devoted to non-residential uses in a Planned Unit Development combining residential and non-residential components shall require approval from the Planning and Zoning Commission.  
The owner or owners of a tract of land may request a conditional use permit to allow a Planned Unit Development in the aforementioned districts.

#### **B. Development Plan Requirements**

No application for a conditional use permit for a Planned Unit Development shall be considered for approval by the BZA until the information listed below has been submitted by the applicant to the Planning & Zoning Commission and the Commission has provided its recommendation.

Ten (10) copies of a development plan shall be submitted to the Planning & Zoning Commission and shall include:

1. The proposed location and size of areas or planned uses indicating unit density, types and total number of units in such plan.
2. All PUD development shall have a minimum six (6) foot side yard requirement and comply with all other setback and yard requirements within the zoned district.
3. All PUD Zoned Districts shall follow the adjacent residential zoned setbacks.
4. The proposed provision of water, sanitary sewer and surface drainage facilities, including engineering studies showing feasibility or other evidence of reasonableness. Each residential dwelling/unit on the property will be required to have its own sewer and water tap and water meter.
5. The proposed traffic circulation patterns including ownership of street, common open spaces, parking, walks, school sites, etc., including their relationship to topography, streets or showing evidence of reasonableness.
6. The proposed schedule of development and construction, including sketches and other materials indicating design principles, concepts and landscape treatment
7. The proposed relationship to existing and future land use in the surrounding area, street system, community facilities, services and other public improvements.

### **C. Project Area/ Density**

The maximum density of the entire Planned Unit Development shall not exceed ten (10) units per acre. The Planning & Zoning Commission may consider a higher density in undeveloped areas other than those reflected by current zoning. Consideration may be given provided that the developer can utilize Planned Unit Development techniques to demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development. The requirement may also be waived by the Planning & Zoning Commission if all property abutting the subject tract of land is platted and/or developed.

### **D. Common Open Space**

A minimum of ten percent (10%) of the gross land area developed in any planned unit development project shall be reserved for common open space and/or recreational facilities. Such common open space may be:

1. Dedicated to a Homeowner's Association who shall possess the title to the land which shall be retained as common open space. The legal articles relating to the organization of the Homeowner's Association shall be subject to review and approval by the Planning & Zoning Commission and shall provide adequate provisions for the perpetual care and maintenance of all such common areas;
2. Dedicated to the Village for parks, open space or the site of schools or other related public facilities. All land so dedicated shall be subject to the review and approval of the Planning & Zoning Commission, subject to the size, shape and location; or
3. A combination of 1 and 2.

Exceptions to common open space requirements – The Planning & Zoning Commission may waive the requirements necessary for Common Open Space provided that the development plan presented aligns with the integrity and character of the area in which it encompasses.

### **E. Application Process**

Upon following the pre-application recommendations herein, interested applicants shall comply with the application process pursuant to Development Plan Review as outlined in Chapter 17 of this Zoning Code.

Planned Unit Developments shall expire three (3) years after approval, if no work has been initiated.

## SECTION 11.2 – SUMMARY OF PUD LOT STANDARDS AND YARD REQUIREMENTS

	<b>Residential R-PUD</b>	<b>Business B-PUD</b>	<b>Industrial I-PUD</b>
<b>Minimum Lot Area (SQ FT)</b>	5,000	20,000	---
<b>Minimum Lot Width (FT)</b>	40	35	---
<b>Minimum Front Yard (FT)</b>	25	150	---
<b>Minimum Rear Yard (FT)</b>	30/40	220	---
<b>Minimum Side Yard (FT)</b>	6	---	---
<b>Total Side Yard (FT)</b>	6	6	---
<b>Maximum Height (Peak) of Dwelling (FT)</b>	35	35	50
<b>Minimum Floor Area Per Unit (SQ FT)</b>	1,000	8,500	10,000
<b>Maximum Lot Coverage</b>	30%	80%	80%



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## **CHAPTER 12 BUSINESS DISTRICT**

### **SECTION 12.1 – B-1 DOWNTOWN BUSINESS**

The purpose of the B-1 Downtown Business district is to promote and foster the economic and physical revitalization of downtown Arcanum. The district is designed to provide for a restricted variety of retail stores and related activities and for office buildings and service establishments which occupy the prime retail frontage in the B-1 Business district, and which serve the convenience and service needs of a consumer population well beyond the corporate boundaries of the Village. The Downtown should contain a healthy mix of land uses. The marketplace – not regulations – should be the primary force driving the mix of downtown uses. The downtown should be particularly receptive to small local-based entrepreneurship and start-up businesses. Regulations in this business district are somewhat restricted related to size and scale, traffic control and facade/ landscaping.

#### **A. Permitted Principle Uses**

1. Public and Recreational Uses
  - a) Hospitals
  - b) Private Clubs
2. Business Offices Uses
  - a) Business, Professional and Administrative Offices
  - b) Medical Offices and Clinics
3. Retail Commercial and Services Uses
  - a) General Merchandise Stores
  - b) Personal Services
  - c) Restaurants, Fast Food
  - d) Financial Establishments
  - e) Home Electronics and Small Appliance Repair Shops
  - f) Automobile Sales, Repair and Body Shop
4. Road Service and Commercial Entertainment Uses
  - a) Convenience Stores

#### **B. Accessory Uses**

Accessory structures and uses in B-1 Districts are those customarily incidental to the Permitted Principal Uses in B-1 Districts.

#### **C. Conditional Uses**

A building or premises may be used for the following purposes in the B-1 Downtown Business District if a Conditional Use Permit has been granted by the BZA as provided in Chapter 7.

1. Residential Uses

- a) Upper Story Residences of a minimum of six hundred (600) square feet - Residences in the upper stories of existing buildings provided that each dwelling unit has at least 600 square feet of habitable floor area, and further provided that a specific Development Plan (see Development Plan Review – Chapter 17) for the project is approved by the Planning and Zoning Commission.
- 2. Public and Recreational Uses
  - a) Child Day Care Centers
  - b) Government Buildings of all Types
  - c) Public Parks
  - d) Museums
- 3. Retail Commercial and Service Uses
  - a) Restaurants
  - b) Business Planned Unit Developments
  - c) Funeral Homes
  - d) Bowling Alley
  - e) Vehicle Sales and Rentals
  - f) Printing, Publishing, Lithographing, Binding and Computer-Based Establishments
  - g) Discount General Chain Stores of similar merchandise that offer for sale a combination and variety of convenience shopping goods and consumer shopping goods, and which continuously offer a majority of the items in their inventory for sale at a price less than ten (10.00) dollars per item and shall be one (1) mile from an existing store and two hundred (200) feet from residentially zoned property.
- 4. Road Service and Commercial Entertainment Uses
  - a) Automobile Repair, Painting, and Body Shops
  - b) Commercial Recreational and Entertainment Facilities
  - c) Automobile Service Stations
  - d) Bars, Taverns
  - e) Motels and Hotels
- 5. Alternate Energy Generation System

**D. Prohibited Uses**

- 1. Light or Heavy industrial
- 2. Dwelling Units, except those specifically allowed under the conditionally permitted uses.
- 3. Sexually Oriented Business
- 4. Junk/Salvage yards, as defined in definitions Section 1.2.

## **SECTION 12.2 – B-2 RESIDENTIAL BUSINESS**

The purpose of the B-2 Residential Business District is to provide for the orderly development of neighborhood-oriented businesses serving the regular day- to-day convenience and service needs of nearby residents and surrounding areas. This district is typically mapped along traffic arteries adjacent to the B-1 Downtown Business District. Because business establishments within this district are more closely associated with the residential land uses, more restrictive requirements related to size and scale, traffic control and landscaping are needed than in other business districts. It is the intent of this Zoning Code, and this district in particular, to protect and preserve the basic property rights of such existing nonconforming uses. Specific provisions are made for the continuance, substitution and extension of such use, pursuant to Chapter 5 of this Zoning Code and Section 713.15 of the Ohio Revised Code.

### **A. Permitted Principle Uses**

1. Residential Uses
  - a) Single-Family Dwellings
  - b) Two-Family Dwellings
  - c) Multi-Family Dwellings
2. Public and Recreational Uses
  - a) Single-Family Dwellings
  - b) Two-Family Dwellings
  - c) Multi-Family Dwellings
3. Business Office Uses
  - a) Single-Family Dwellings
  - b) Two-Family Dwellings
  - c) Multi-Family Dwellings
4. Retail Commercial and Service Uses
  - a) General Merchandise Stores
  - b) Personal Services
  - c) Restaurants, Fast Food
  - d) Financial Establishments
  - e) Private Schools
  - f) Home Electronics and Small Repair Shops

### **B. Accessory Uses**

Accessory structures and uses in B-2 Residential Business Districts are those customarily incidental to the Permitted Principal Uses.

### **C. Conditional Uses**

A building or premises may be used for the following purposes in the B-2 Residential Business District if a Conditional Use Permit has been granted by the BZA as provided in Chapter 7.

1. Residential Uses
  - a) Residential Planned Unit Development
  - b) Bed & Breakfast
2. Public and Recreational Uses
  - a) Educational Institutions, Elementary, Junior High, and High Schools
  - b) Child Day Care Centers
  - c) Libraries
  - d) Government Buildings of all Types
  - e) Public Parks
  - f) Museums
3. Retail Commercial and Service Uses
  - a) Restaurants
  - b) Business Planned Unit Development
  - c) Funeral Homes
  - d) Vehicle Sales and Rentals
  - e) Printing, Publishing, Lithographing, Binding and Computer-Based Establishments
4. Alternate Energy Generation System

**D. Prohibited Uses**

1. Light or Heavy industrial
2. Sexually Oriented Business
3. Discount General Chain Stores
4. Junk/Salvage yards, as defined in definitions Section 1.2.

**E. Setback Requirements**

All setback requirements shall follow closest adjoining residential district.

## **SECTION 12.3 – B-3 NEIGHBORHOOD BUSINESS**

This district is designed to provide for establishments which serve the convenience and service needs of a consumer population well beyond the corporate boundaries of the Village with convenient off-street parking and safe pedestrian movement, while providing for small low-intensity commercial and professional office and similar uses in such areas, but to exclude nonretail uses which generate a large volume of truck traffic.

### **A. Permitted Principle Uses**

1. Public and Recreational Uses
  - a) Hospitals
  - b) Private Clubs
  - c) Government Buildings of all types
  - d) Child Day Care Centers
2. Business Offices Uses
  - a) Business, Professional, and Administrative Offices
  - b) Medical Offices and Clinics
3. Retail Commercial and Service Uses
  - a) General Merchandise Stores
  - b) Personal Services
  - c) Restaurants, Fast Food
  - d) Financial Establishments
  - e) Home Electronics and Small Appliance Repair Shops
4. Road Service and Commercial Entertainment Uses
  - a) General Merchandise Stores

### **B. Accessory Use**

Accessory structures and uses in B-3 Neighborhood Districts are those customarily incidental to the Permitted Principal Uses in B-3 Neighborhood Districts.

### **C. Conditional Uses**

A building or premises may be used for the following purposes in the B-1 Neighborhood Business District if a Conditional Use Permit has been granted by the BZA as provided in Chapter 7.

1. Public and Recreational Uses
  - a) Public Parks
  - b) Museums
2. Retail Commercial and Services Uses
  - a) Animal Hospitals, Veterinary Clinics (not including outside boarding of animals)
  - b) Business Planned Unit Developments

- c) Funeral Homes
  - d) Vehicle Sales and Rentals
  - e) Printing, Publishing, Lithographing, Binding, and Computer-Based Establishments
  - f) Discount General Chain Stores of similar merchandise that offer for sale a combination and variety of convenience shopping goods and consumer shopping goods, and which continuously offer a majority of the items in their inventory for the sale at a price less than ten (\$10.00) dollars per item and shall be one (1) mile from an existing store and two hundred (200) feet from residentially zoned property.
- 3. Road Service and Commercial Entertainment Uses
    - a) Automobile Repair, Painting, and Body Shops
    - b) Commercial Recreational and Entertainment Facilities
    - c) Automobile Service Stations
    - d) Bars, Taverns
    - e) Motels and Hotels
  - 4. Alternate Energy Generation System

#### **D. Prohibited Uses**

- 1. Light or Heavy industrial
- 2. No Residential Dwelling Units
- 3. Sexually Oriented Business
- 4. Junk/Salvage yards, as defined in definitions Section 1.2.

#### **E. Setback Requirements**

All setback requirements shall be a minimum of ten (10) feet from all lot lines.

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## CHAPTER 13 I-1 LIGHT INDUSTRIAL DISTRICT

### I-2 HEAVY INDUSTRIAL DISTRICT

The I-1 and I-2 Districts are established to provide for a range of industrial as well as other activity which may be industrial/commercial in nature. Two (2) separate industrial districts are established.

#### SECTION 13.1 – I-1 LIGHT INDUSTRIAL/ I-2 HEAVY INDUSTRIAL

**I-1 Light Industrial District.** This district is to provide for industrial uses and related operations and other uses that by virtue of their characteristics are suitable to be operated in a clean and quiet manner by reason of location and regulations necessary to prohibit congestion and for the protection of adjacent residential and business activities.

**I-2 Heavy Industrial District.** This district is to provide areas where industrial and other industrial related activities may locate and by virtue of their external effects should be isolated from residential uses. Residential uses are prohibited. The district is primarily intended for areas which are undeveloped, having larger lots and irregular block patterns and suited for industrial and development by reason of location, topography, soil conditions and the availability of adequate utilities and transportation systems.

#### A. Principal & Conditional Uses

The conditional uses may only be permitted by the BZA, upon application and approval of a conditional use permit under provisions of Chapter 7.

<u>Uses</u>	District	
	<u>Light I-1</u>	<u>Heavy I-2</u>
Industrial Categories:		
• Industrial Product Sales	P	P
• Industrial Service	C	P
• Manufacturing and Production	C	P
• Warehouse and Distribution	C	P
Sales and Service Categories:		
• General Office Activities	P	P
• Personal Service	P	P
• Retail Product Sales and Service	P	N
• Vehicle Service	P	P
Other Uses:		
• Radio/Internet/Television Broadcast Facility	C	P
P=Permitted Activity      C=Conditional Activity      N=Not Permitted		

## **B. Category Uses For Industrial Districts**

The I-1 and I-2 Districts are established to provide for a range of industrial as well as other activity which may be industrial/commercial in nature. Two (2) separate industrial districts are established.

### **1. Industrial Product Sales:**

- a. Characteristics - Firms are involved in the sale, rent or lease of products generally intended for industrial or commercial users. Sales may be wholesale or retail. Emphasis is on on-site sales or order taking and may include display areas. Products may be delivered to the customer.
- b. Accessory Uses - Accessory activities may include administrative offices, product repair, and warehouses.
- c. Examples - Industrial Product Sales activities may include; sale of machinery and equipment, special trade tools, electrical supplies, janitorial supplies, restaurant equipment, office furniture, store fixtures and vehicle rentals.
- d. Exceptions - Firms that primarily engage in retail sales to the general public are classified as Retail Product Sales and Service.

### **2. Industrial Service:**

- a. Characteristics - Firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment or products. Few customers, especially the general public, come to the site.
- b. Accessory Uses - Accessory activities may include administrative offices.
- c. Examples - Industrial Service activities may include welding shops; machines shops/ tool and appliance repair; electric motor repair; truck and large equipment repair; storage and salvage; headquarters for building, heating, plumbing or electrical contractors; printing, publishing and blueprinting; janitorial and building maintenance services; medical, search and testing laboratories; laundry, dry-cleaning and carpet cleaning plants; and photo finishing laboratories.

### **3. Manufacturing and Production:**

- a. Characteristics - Firms are involved in the manufacturing, processing, fabrication, packaging or assembly of goods. Raw, secondary or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants or to fulfill orders for

firms or consumers. Goods are generally not displayed or sold on-site. Relatively few customers come to the manufacturing site.

- b. Accessory Uses - Accessory activities may include: administrative offices, cafeterias, employee recreational facilities, warehouse, storage yards, outlets, and care takers' quarters. Retail outlet as an accessory to manufacturing plants shall be treated as Retail Products Sales and Service.
- c. Exceptions - Manufacturing of goods to be sold primarily on-site and to the general public are classified in the Retail Product Sales and Service category.

#### 4. Warehouse and Distribution:

- a. Characteristics - Firms are involved in the movement, storage and/or sales of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer. The category includes wholesale sales which are not open to the general public and where on-site sales are low.
- b. Accessory Uses - Accessory activities may include: administrative offices, truck fleet parking and maintenance areas, repackaging of goods, and showrooms or display areas, but generally not for direct sale.
- c. Examples - Warehouse and Distribution firms may include: warehouse used by retail stores such as furniture and appliance stores; food and hardware distributors; household moving and general freight storage; distribution of industrial items; building materials, plumbing and electrical distributors; truck terminals; parcel services; major post offices; mail order houses; and public mini-warehouses.

### C. Sales And Service Categories

#### 1. General Office Activities:

- a. Characteristics - Firms where activities are conducted in an office setting and generally focus on business or personal services. If the office activity is part of a larger firm, it does not need to be on the same site as the primary activity. Most people coming to the site are employees.
- b. Accessory Uses - Accessory uses may include; cafeterias, health facilities, or other amenities primarily for the use of employees in the firm or building.
- c. Examples - Professional services such as lawyers, accountants, engineers or architects; financial businesses such as brokerage houses, lenders, or realtors; data-processing; sales offices;

industrial or commercial company headquarters when not adjacent with other portions of the firm; and government offices.

2. Personal Service:

- a. Characteristics - These establishments provide on-site personal services or entertainment to the general public or business person.
- b. Accessory Uses - Accessory uses may include; administrative offices, product sales and laboratories.
- c. Examples - Barbers, hair salons and personal care services; banks, savings and loans, and credit unions; continuous entertainment activities such as arcades, bowling alley, ice rinks, libraries, and museums; cafes, restaurants, bars and taverns; day care facilities; laundromats; business and trade schools; dance and martial arts schools; health clubs, gyms, racquet centers, membership clubs, and lodges; medical related offices such as doctors, dentists, optometrists and veterinarians; public service agencies such as employment offices, social service agencies, and permit issuing offices.

3. Retail Product Sales and Services:

- a. Characteristics - Firms are involved in the sale, lease or rent of used products or goods to the general public and/or provide onsite product repair or services for consumer and business goods. Goods are displayed and sold on-site, and use or consumption is primarily off-site. Goods are generally taken offsite by the customer at the time of sale or may be delivered by the firm. For items being serviced, customers generally deliver and pick up the items and spend little time at the site.
- b. Accessory Uses - Accessory uses may include: offices, storage and display of goods.
- c. Examples - Stores selling apparel, housewares, furniture, hardware, auto parts, flowers, personal care items, sporting goods, office products and machines, and computers; food produce or meat markets; delicatessens and caterers; tool rental and household moving centers; sales of cars, motorcycles, boats and recreational vehicles; repair of televisions, appliances, shoes, precision instruments and business machines; laundry or dry cleaning drop off; on-site laundries; photo drop-off; quick printing or reproducing; tailors; locksmiths; upholsterers; and furniture refinishing.
- d. Exceptions –
  - i. Lumber yards and similar building material sales which sell primarily to contractors and do not have a

retail orientation are classified in the Industrial Product Sales Category.

- ii. Repair and service of consumer vehicles is classified in the Vehicle Service category. Repair of motor vehicles in conjunction with vehicle sales is classified in the Vehicle Service category.
- iii. Repair and service of industrial vehicles and equipment is classified in the Industrial Service category.

#### 4. Vehicle Services:

- a. Characteristics - Firms servicing automobiles, light trucks and other consumer vehicles such as motorcycles, boats and recreational vehicles.
- b. Accessory Uses - Accessory uses may include offices and sales of parts.
- c. Examples - Gas stations, vehicle repair, auto body shop, alignment shop, auto upholstery shop, tire sales and mounting, towing and vehicle storage, and surface or garage fee parking.

#### **D. Other Categories**

##### 1. Radio/Internet/Cell/Television Broadcast Facility:

- a. Characteristics - Any and all devices, equipment, machinery, structures or supporting elements, must be FCC compliant.

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## **CHAPTER 14**

### **FLOODPLAIN OVERLAY DISTRICT ("FP DISTRICT")**

It is the intent of the Floodplain Overlay District to regulate the use of floodplains for purposes which could be detrimental to health and welfare for citizens of the Village of Arcanum. The FP District is an overlay zoning district. This means that the underlying district standards and requirements shall apply in addition to the FP District regulations and requirements.

For the purpose of this Zoning Code, "floodplains" are defined as those lands subject to inundation by the 100-year flood. Such areas shall be as identified by the Federal Emergency Management Agency (FEMA) on Flood Insurance Rate Maps 390139 0002 C, dated September 29, 1989, and any amendments or revisions thereto.

#### **A. Development Standards And Requirements**

The standards, requirements and administrative procedures for development of land within the FP District shall be governed by the Flood Damage Reduction Ordinance. If, upon review of an application for a zoning permit, it is determined that the area at issue is located in a floodplain, the only administrative requirement of the Enforcing Officer is to notify the applicant of the same.





## **CHAPTER 15**

### **ADDITIONAL ZONING REQUIREMENTS**

#### **SECTION 15.1 – ACCESSORY BUILDINGS**

It is the purpose of this Zoning Code to regulate accessory buildings in order to promote public health, safety, and welfare. It is the intent of this Section to permit such buildings to be established and maintained in a manner which makes them compatible with principal uses and harmonious with uses upon adjacent properties.

##### **A. Definitions**

Accessory Building or Structure – A structure occupied by a use which is subordinate, secondary, incidental to and customary in connection with the principal building or use and located on the same lot as the principal building or use. Recreational facilities designed for the use of the occupants of a single-family dwelling and their guests are considered accessory buildings.

Residential accessory structures may include but are not limited to the following:

1. Detached garages
2. Tool sheds
3. Garden sheds
4. Swimming Pool/ Pool House
5. Children's playhouse/Treehouses
6. Alternate energy sources

##### **B. General Regulations**

Except as herein provided, no building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used:

1. Except for a purpose permitted in the district in which the building or land is located.
2. Except in conformance to the height or footprint established herein for the district in which the building or use is located.
3. Except in conformance to the yard and lot regulations of the district in which the building or use is located.
4. Except in conformance to the off-street parking and off-street loading space regulations of the district in which the building or use is located.

##### **C. Conditions**

1. If the primary structure has a garage (attached or detached) only one accessory building will be permitted on a residential lot.

2. In any residential district, all unattached accessory buildings shall be erected within a required back yard defined as the rear of the principal dwelling.
3. No accessory building is permitted on a lot without a principal dwelling.

#### **D. Requirements**

1. Height - No accessory buildings in residential districts shall exceed fourteen (14) feet in height unless the subject property is granted specific approval for a higher accessory building by the BZA. The BZA may only grant such a variance in order to promote consistency with the architectural character of the other structures on the site.
2. Set Back – A detached accessory building shall be at least six (6) feet from the side or rear lot lines.
  - a. Accessory buildings shall be constructed not closer to the side or rear lot line requirement of the district where it is located.
3. Corner Lots – Lots fronting on more than one street shall provide the required front yard setbacks on both streets.
  - a. Accessory buildings shall not extend beyond the rear corner of the primary structure into the side yard with street frontage.
4. Through Lots – On through lots, the front yard requirement shall apply to all street frontages.
5. Accessory buildings must maintain a minimum of ten (10) feet between structures on a residential lot.
6. The total area of all detached accessory structures shall not exceed thirty percent (30%) of the actual rear yard area, but in no case shall the total area of all accessory structures exceed 400 square feet.
  - a. For computing the percentage of occupancy of a rear yard, if a detached accessory building is attached with a breezeway, then the breezeway shall be considered as a part of the accessory building and shall be included in the computation.

### **SECTION 15.2 – ALTERNATE ENERGY GENERATION SYSTEMS**

It is the purpose of this Section to promote the safe, effective and efficient use of installed solar energy systems that reduce on-site consumption of utility-supplied energy while protecting the health, safety and welfare of adjacent and surrounding land uses and properties. This Section seeks to provide property and business owners with flexibility in satisfying their on-site energy needs and reducing the overall energy demands within the Village of Arcanum and to promote energy efficiency, as well as integrate alternative energy systems seamlessly into the Village's neighborhoods and landscapes without diminishing quality of life in Village neighborhoods.

#### **A. Solar Energy Systems**

##### **1. General Provisions**

- a. No installation or construction of any solar energy system is permitted without obtaining a conditional use permit pursuant to Section 7.1. Applications shall be accompanied by a fee set forth and approved by the Village of Arcanum. Application fees are non-refundable.
- b. This section shall be in compliance with all standards of this Zoning Code and applies to installation and construction of ALL building-mounted and ground-mounted solar energy systems.
- c. Solar Energy Systems constructed prior to the effective date of this Zoning Code, shall require a conditional use permit be obtained from the Enforcing Officer to ensure the interconnectivity requirements of the Village are in compliance.
- d. Building and/or ground mounted systems are permitted in all zoning districts as an accessory use to any lawfully permitted principal use on the same lot.
- e. All solar energy systems shall be based on output power availability as authorized by Arcanum Village Council.
- f. Building-integrated systems, as defined by these regulations, are not considered an accessory use and are not subject to the requirements of these regulations.
- g. Solar Energy Systems related to Village utility operations are exempt from these requirements.
- h. Any upgrade, modification or structural change that materially alters the size or placement of an existing solar energy system shall comply with the provisions of these regulations.
- i. No signage or graphic content may be displayed on the solar energy system except the manufacture's badge, safety information, and equipment specification information. Said information shall be depicted with an area no more than thirty-six (36) square inches in size.
- j. All wiring must comply with the National Electrical Safety Code, most recent edition, as amended and adopted by the State of Ohio.
- k. For ground-mounted systems, all exterior electrical lines must be buried below the surface of the ground where possible or be placed in conduit.
- l. All solar energy systems must be constructed to comply with the most recent fire code as amended and adopted by State of Ohio.
- m. Ground-mounted systems are subject to the accessory use and structure setback requirements in the zoning district in which the system is to be constructed.
- n. The surface area of any ground-mounted system, regardless of the mounted angle of any portion of the system, is considered surface and shall be calculated as part of the lot coverage limitations for the

zoning district. If the ground-mounted system is mounted above existing surfaces, it shall not be calculated as part of the lot coverage limitations for the zoning district.

- o. Building-mounted systems are permitted to face any rear or side yard. Building-mounted systems may only be mounted on a lawfully permitted principal or accessory structure. If a building mounted system comprises an integral part of the roof and doesn't impact the aesthetic nature of the area then it is permitted to face the front yard.
- p. All ground-mounted systems must be contained in a fence which meets the requirements of this Zoning Code.
- q. Building-mounted systems on a sloped roof shall not be required to be screened.
- r. Building-mounted systems mounted on a flat roof shall not be visible from the public right-of-way within a twenty-five (25) foot radius of the property, at a level of five (5) feet from the ground in a similar manner as to any other rooftop HVAC or mechanical equipment. This can be accomplished with architectural screening such as a building parapet or by setting the system back from the roof edge in such a manner that the solar system is not visible from the public right-of-way within a twenty-five (25) foot radius when measured at a distance of five (5) feet from the ground.

## **2. Height Requirements**

- a. For a building-mounted system installed on a sloped roof that faces the rear or side yard of a lot, the system must be installed at the same angle as the roof on which it is installed with a maximum distance, measured perpendicular to the roof, or eighteen (18) inches between the roof and highest edge or surface of the system.
- b. For a building-mounted system installed on a sloped roof, the highest point of the system shall not exceed six (6) inches from the highest point of the roof to which it is attached.
- c. For a building-mounted system installed on a flat roof, the highest point of the system shall be permitted to extend six (6) inches above the roof to which it is attached.
- d. Ground-mounted systems may not exceed six (6) feet in any zoning district where said system is to be installed.

## **3. Nonconformance**

- a. If a building mounted system is to be installed on any building or structure that is non-conforming because its height violates the

height restrictions of the zoning district in which it is located, the building-mounted system shall be permitted so long as the building-mounted system does not extend six (6) inches above the peak or highest point of the roof to which it is mounted and so long as it complies with the other provisions of this Zoning Code.

- b. If a building-mounted system is to be installed on a building or structure on a non-conforming lot that does not meet the minimum setback requirements and/or exceeds the lot coverage limits for the zoning district in which it is located, a building-mounted system shall be permitted so long as there is no expansion of any setback or lot coverage non-conformity and so long as it complies with the other provisions of this Zoning Code.
- c. If a ground mounted system is to be installed on a lot containing a structure that is non-conforming because the required minimum setbacks are exceeded, the proposed system shall be permitted so long as the system does not encroach into the established setback for the lot.

#### **B. All Other Alternate Energy Systems**

No wind energy turbines are permitted in the Village of Arcanum.

Any other alternate energy producing source not specifically addressed herein shall require an application to be filed with the Enforcing Officer and may require a conditional use permit. Said application shall be accompanied by a fee set forth and approved by the Village of Arcanum.

#### **C. Inspections And Violations**

The Village of Arcanum reserves the right to inspect a solar energy system for building or fire code compliance and safety.

If, upon inspection, the Enforcing Officer determines that a fire code or building code violation exists, or that the system otherwise poses a safety hazard to person or property, the Enforcing Officer may order the owner to repair or remove the system within a reasonable time. Such an order shall be in writing, shall offer the option to repair, shall specify the code violation or safety hazard found, and shall notify the owner of his/her right to appeal such determination.

Penalties and fines shall be enforced under Chapter 3 Section 3.3.

### **SECTION 15.3 – FENCES, WALLS, HEDGES, SCREENING/ BUFFER**

Fences, walls, hedges, screening and buffer means any structure composed of wood, metal, stone, vinyl or brick, including hedges or other plants, erected in

such a manner and location so as to enclose, partially enclose or divide any premises or part of premises for the purpose of confinement, screening, partitioning, or decoration. Trellises or other structures for the purpose of supporting vines, flowers or other vegetation, when erected in such a position so as to enclose, partially enclose, or divide any premises or any part of premises shall also be considered a fence.

#### **A. General Regulations**

Any installation or modifications of fences, wall, hedges, and similar structures as defined above, requires a Zoning permit with a drawing of the lot reflecting actual location of proposed fence or wall along with a picture of planned design.

Any nonresidential use of land or lot that adjoins or faces any residential district must submit a plan for screening for approval before any building or structures shall be erected, altered or enlarged.

No fence, wall, or hedge planting shall interfere or obscure with visibility from a driveway or public right of way. Twenty-five (25) feet clear sight distance shall be maintained along any street from said intersection. The Enforcing Officer is hereby empowered to cause all such obstructions to be removed in the interest of the public safety.

The property owner shall determine property lines and certify that the fence or wall does not encroach upon another lot or parcel of land. The approval of a permit to construct a fence shall not be deemed as a representation by Village that the property lines as shown on the application are correct.

#### **B. Residential**

1. Fence setbacks shall be two (2) feet unless the permit is accompanied by a letter from adjoining property owner agreeing to allow the fence to be placed on the agreed property line. NOTE: Said agreement will be included with zoning permit.
2. No fences may be erected in front yards.
3. No fences may be erected across any easement area.
4. All support structures shall face to the inside, and be constructed of steel or wood posts, and properly supported and braced by top rails.
5. Fences or walls not exceeding 72 Inches in height may be erected in any area of lot behind the front face of any principal structure, however any residential chain link fence in excess of 48 inches in height shall require the specific approval of the Planning and Zoning Commission.
6. No livestock fencing, barbed wire, electric fencing, wire welded fence, or solid metal sheeting is permitted.
7. No person shall erect or maintain any fence or wall in any residential district charged with electrical current. (Excludes pet containment systems)

8. Fences shall be constructed with uniformity of the same material & design that are of a natural color customarily used for fencing; (wood fences may be stained with any natural base stain or painted white and any vinyl fences ordered in the customary colors intended for vinyl fencing. All chain link fence must be coated chain link fence).
9. No shrubbery or hedge shall be planted in such a manner that any portion of growth extends beyond the property line.
10. No person shall erect or maintain any fence or wall having wire or metal prongs or spikes, or other cutting points or edges.
11. Corner lots must meet both front and side yard setback requirements as outlined in Section 9.3 along each street. Fences cannot extend beyond the rear corner of the primary structure into the side yard with street frontage.
12. Whenever required screening is adjacent to parking areas or driveways, such screening shall be protected by bumper blocks or curbing to avoid damage by vehicles.

#### **C. Residential/ Commercial Screening/ Buffer**

Screening shall be permitted for one or more of the following purposes:

1. A visual barrier to partially or completely obstruct the view of unattractive structures or activities.
2. As an acoustic screen to aid in absorbing or deflecting noise.
3. Screening of trash receptacles to effectively screen them from view.
4. Composition of screening may be one of the following or a combination of two or more:
  - a. A solid masonry wall.
  - b. A solidly constructed decorative fence.
  - c. A louvered fence.
  - d. Dense evergreen plantings.

#### **D. Additional Requirements For Commercial Screening/ Buffer**

1. Location of Screening - Whenever any nonresidential use abuts a residential district, a visual screening wall, fence or planting shall be erected or placed along any mutual boundary lines.
2. Height of Screening - Visual screening walls, fences or plantings shall be at least six (6) feet in height and a combination wall/fence with vegetation a minimum of ten (10) feet wide. The use of year-round vegetation such as pines or evergreens, is encouraged.
3. Depth or Width of Screening - Screening for purposes of absorbing or deflecting noise shall have a depth of at least fifteen (15) feet of dense plantings or a solid masonry wall in combination with decorative plantings.

## SECTION 15.4 – OFF-STREET PARKING & LOADING

The intent of the off-street parking and loading regulations is to protect the public health, safety, and welfare by ensuring that all land uses have adequate amounts of off-street parking and loading areas to insure the efficient handling of vehicular traffic.

### General Provisions

In all districts, at any time any building, structure, or use of land is erected, enlarged, increased in capacity, or used, there shall be provided for every use off-street parking spaces for vehicles. A parking plan shall be required for all uses except for single or two-family residential uses. The parking plan shall be submitted to the Enforcing Officer as part of the application for a Zoning Permit. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, and boundary walls, fences and a screening plan, as appropriate. Due to the historical lay out and or structures of the downtown area, some and/or all of the aforementioned requirements within this Section may not be reasonably enforceable and the determination of such will be made by the Enforcing Officer.

### **A. Business & Industrial Off-Street Loading Regulations**

The parking and storage of commercial vehicles shall be subject to the following requirements:

1. Amount of Loading Space Required - The minimum amounts of off-street loading space shall be provided according to the table below. An area adequate for maneuvering, ingress and egress shall be provided in addition to the required loading space.

<u>Square Feet of Gross Floor Area</u>	<u>Required No. of Spaces</u>
Up to 10,000 sq. ft.	1 Space
10,001 to 20,000 sq. ft.	2 Spaces
20,001 to 40,000 sq. ft.	3 Spaces
40,001 to 75,000 sq. ft.	4 Spaces
75,001 or more sq. ft.	5 Spaces

2. Loading Space Dimensions – Each loading space shall have minimum dimensions of:

<u>Length</u>	<u>Width</u>	<u>Height Clearance</u>
25 Feet	15 Feet	15 Feet

3. Ingress & Egress - Off-street loading spaces shall be provided with ingress & egress, not less than twelve feet (12) in width, and so located as to minimize traffic congestion.
4. Projection Into Rear Lots - Off-street loading space may occupy all or any part of any required rear lot space.



5. Surfacing – All off-street parking and loading areas shall be properly graded, drained, marked and surfaced so as to provide a hard durable and dustless surface.
6. Drainage - All loading spaces, together with driveways, aisles, and other circulation areas, shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways, or onto the public streets. Arrangements shall be made to ensure acceptable diversion to an adequate storm water drainage system.
7. Lighting – Any lighting used to illuminate any loading area shall be so arranged as to reflect light away from any adjoining property.

#### **B. Off-Street Parking Regulations**

1. Residential off-street parking spaces shall consist of a driveway, garage or combination thereof and shall be located on the premises they are intended to serve. Motor vehicles shall not be parked or stored in the front or side yard.
2. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.
3. All residential lots shall have no more than one (1) approach, with the location of the approach to be at the discretion of the Enforcing Officer or his/her designee.
4. Off-street parking existing at the effective date of this Zoning Code in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
5. Two (2) or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
6. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the BZA may grant an exception.
7. The storage or sale of merchandise, or the repair of vehicles is prohibited without a permit.
8. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which the BZA considers as being similar in type.
9. A suitable means of ingress or egress for vehicles to premises used for parking shall be provided, and shall open directly from and to a public street, alley or highway. The width of any exit or entrance adjoining property or opposite property zoned for residential uses shall be approved by the Enforcing Officer prior to obtaining any permit therefore.

10. Fencing, wheel stops or other physical barriers shall be provided for all boundaries of the parking area except at points of ingress and egress to prevent encroachment of vehicles for safety.
11. All parking lots shall be surfaced with a hard or semi-hard dust free surface.
12. If the parking lot is to be open for use after dark it shall be provided with not less than two lumens of light per square foot of parking lot surface. Lights shall be shielded so as not to shine directly or in an offensive manner on the adjoining residential property.

**C. Allowed Amount Of Off-Street Parking:**

The amount of off-street parking spaces for new uses or buildings, additions thereto, or additions to existing buildings, shall be determined in accordance with the following minimum parking provisions. In the case of a use not specifically mentioned, the requirements for off-street parking shall be the same as for a similar use specifically mentioned, said similarity to be determined by the Enforcing Officer.

Single Family Dwelling	2 spaces per unit, and one space for each two roomers
Two-Family Dwelling	1.5per per dwelling & 1 for each two roomers
Multiple Family	1.5 per dwelling & 1 per each occupant
Office Building	1 per every 200 sq. ft of gross floor area
Retail Stores	1 per every 200 sq. ft.; self-service/ supermarkets 1 per every 100 sq. ft.
Barber Shops/ Beauty Parlor	1 per chair; 1 per employee
Restaurant w/inside services only or tavern	1 per each 4 seats; 1 per every 2 employees
Banks	1 per every 250 sq. ft.
Laundry services/Dry cleaners	1 per every 250 sq. ft.
Banks w/drive thru services	5 per teller window; 1 per each employee. For no inside services – 1 per employee
Auto Service Station	4 spaces
Automobile Sales & Service garage	1 per each 200 sq. ft of main display room
Used Car Lot	1 per every 1,500 sq. ft. of lot area

Professional & Medical Spaces	1 per 150 sq. ft of floor area. Home occupation- 1 per 100 sq. ft. plus residential space allows
Mortuaries or Funeral Homes	1 per 50 sq. ft. of floor space of visitation areas.
Elementary & Middle Schools	1 per each employee; 1 per each 80 sq. ft. in main auditorium or 1 per each 6 fixed seating, whichever is greater
Senior High Schools	1 per employee; 1 per every 5 students; 1 for every 80 sq. ft of main auditorium floor, or 1 for every 6 fixed seating; whichever is greater
Libraries, museums, art galleries and community centers	1 per every 600 sq. ft. of floor area; 1 per each 4 employees
Non-school entertainment facilities, theaters, stadiums, sports areas, auditoriums or other assembly halls other than schools	1 per each 6 seats up to 1,000; 1 per each 3 seat over 1,000
Warehouses & Wholesale stores	1 per every 800 sq. ft. of floor area
Contractor's yard or plant storage yard	1 per each 3 employees
Manufacturing plants/ research Labs	1 per each 2 employees per shift
Church	1 per each 3 seats in main auditorium
Laundromats	1 per each 2 washing machines
Child Daycare Centers	1 per each employee, plus one space per 5 children at capacity, plus a drop-off area as determined by the Zoning Board
Automobile Washing Facilities	1 space per employee with min. of 4 spaces; 5 spaces per each bay; Assembly line washing establishment shall have 15 waiting spaces and 2 parking spaces at end of each washing bay for drying and hand-finishing vehicles
Convenience Food Store, Carry-Outs & Mini-Markets	1.5 spaces for every 200 sq. ft. of floor area, plus on space per employee.

Animal Hospitals/ Veterinary Clinics	3 spaces for each exam room; 1 per employee
Fraternal/ Social Associations, Dance Halls, Bingo Halls & Private Club	1 per each 3 persons allowed to max. capacity
Self-Service Storage Facilities	1 space for every 4,000 square feet of gross floor area, plus one space per employee
Baseball, softball, football, soccer or similar organized sport play field	20 for each playing field, plus one for each 6 seats in stands.

## **SECTION 15.5 – PARKING/STORAGE LIMITATIONS IN RESIDENTIAL DISTRICTS**

### **A. Non-Commercial Vehicles**

The parking and storage of non-commercial vehicles, mobile homes, and camping and recreational vehicles/equipment shall be subject to the following requirements:

1. No non-commercial vehicles, including but not limited to, mobile homes, travel trailers, pick-up campers, folding tent trailers, utility trailers, boats, boat trailers, snowmobiles, snowmobile trailers, aircrafts, all-terrain vehicles, or similar recreational vehicles/equipment, nor any truck larger than 9,999lbs, shall be parked or stored on a public right-of-way.
2. Non-commercial vehicles shall not be parked or stored in the front yard.
3. No mobile homes shall be stored or parked in any residential district.
4. There shall be no more than one (1) recreational vehicle, piece of camping equipment, or utility trailer stored outside a garage in a residential zoned district.
5. No camping, recreational vehicle/equipment, or utility trailer shall be parked or stored in front of the building set back line or within the public right-of way within a residential zoning district.
  - a. If camping, recreational vehicles/equipment, or utility trailer are parked or stored outside a garage, it shall be parked or stored to the rear of the house and must be at least ten (10) feet from any lot line. On corner lots, no recreational vehicle or trailer is permitted to be stored or parked between the right-of-way and the side of the main structure, as well as the front of the structure. Notwithstanding the foregoing, such camping and recreational vehicle may be parked anywhere on the premises for loading and unloading purposes, for a period of not more than seventy-two (72) hours.
6. No camping or recreational vehicles/equipment, as listed herein, shall be connected to electricity, gas, water or sanitary sewer facilities for a period of more than seventy-two (72) hours for loading and unloading purposes.

7. No camping or recreational vehicles/equipment, as listed herein, shall be used as a dwelling.
8. No camping, recreational vehicles/equipment, as listed herein, belonging to a visitor may be parked on any lot for a period of more than seventy-two (72) hours, unless written permission has been obtained from the Enforcing Officer.
9. All recreational vehicles and utility trailers that are longer than thirty (30) feet, higher than twelve (12) feet, or have more than six (6) wheels are strictly prohibited from being stored on residential property within the Village.
10. No automotive vehicles or trailers of any type without current license plates or in non-running condition shall be parked or stored on any residential property other than in a completely enclosed building

#### **B. Commercial Vehicles & Construction Equipment**

No commercial vehicles, including but not limited to, commercial tractors, trucks, buses, manufactured homes, semi-trailers, vehicles with Gross Vehicle Weight of over 10,000 pounds, nor any construction equipment, shall be parked or stored within any public right of way or on any property within a residential zoning district other than in a completely enclosed building, except those commercial vehicles or construction equipment conveying the necessary tools, materials, and equipment to a premise where labor using such tools, materials, and equipment is to be performed during the actual time of parking. No automotive vehicles or trailers of any type without current license plates or in non-running condition shall be parked or stored on any residential property other than in a completely enclosed building.

### **SECTION 15.6 – SIGNAGE**

The intent of this Section is to encourage the proper development of signs and signage systems, to include awning, banner/streamer, billboard, roof, wall and/or window signs, or portable signs, within the Village of Arcanum. It is a further intent of this Section to alleviate sign clutter and to prevent signs from becoming a distraction or an obstruction to the safe flow of pedestrian and vehicular traffic, to prevent signs from adversely impacting adjacent properties or uses, to encourage the development of sign systems that promote a healthful economic and business environment and thereby protect the general health, safety, and welfare of the citizens of the Village, while maintaining an environment free from the destructive influences of obnoxious and indiscriminate sign displays.

#### **A. General Provisions**

1. No sign shall be constructed, erected, or maintained within the Village of Arcanum unless a permit has been issued by the Enforcing Officer, except as permitted herein.
2. A sign means any device for visual communication which is designed, intended, or used to convey a message, advertise, inform or otherwise

direct attention to a person, institution, organization, activity, business, place, object or product.

3. The regulations herein shall apply and govern in all zoning districts. No signs shall be erected or maintained unless it is in compliance with the regulations for the district in which it is located.
4. All signs hereafter erected, constructed or modified shall comply with yard and setback requirements of the district in which it is located.
5. Where illumination of signs is permitted, such illumination shall be neither flashing nor intermittent and shall be designed and constructed so as to concentrate the illumination upon the area of the sign and prevent glare upon the street or adjacent property. Such illumination shall be turned off no later than 11:00 P.M., or the end of the business day, whichever is later, when such sign is within 200 feet of any residential area.
6. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape.
7. No sign shall be affixed to any public utility or street tree, and shall not be located in any public right-of-way or at any location or in any manner to create a safety or visibility hazard.
8. All signs must be located on the premises, and limited to subject matter on which the use is located and is clearly incidental, customary to, and commonly associated with the operation of the use. Any sign displayed at locations other than on the premises must have approval of property owner.
9. If any existing sign is found, upon inspection by the Enforcing Officer, to constitute a hazard to public safety, such sign shall be subject to removal.
10. Should relocation or replacement of a sign occur without said sign being brought into compliance herewith, the sign shall be deemed illegal.
11. Any sign that does not meet the regulations of this Zoning Code shall be subject to penalties and fines as specified in Chapter 3, Section 3.3 Penalties and Fines.

#### **B. Prohibited Signs**

1. Signs that are not specifically permitted by this Zoning Code are hereby prohibited.
2. Any existing non-conforming sign, which has not been previously authorized by the Enforcing Officer.
3. Banners, streamers, pennants and similar air-activated moving signs intended for permanent display or any part which physically moves or is animated so as to give the appearance of movement.
4. Street light pole banners throughout the community which are not seasonal banners or community festival banners. Permitted seasonal and community festival banners must be approved and only erected and removed by Village personnel.

5. Trailer signs that are attached to, painted on, or placed on a motor vehicle, trailer, or other licensed or unlicensed vehicle or conveyance which is parked or located in such a manner as to serve as a portable, temporary, trailer, or freestanding ground-mounted sign.
6. Billboards on off-premise locations more than thirty-two (32) square feet in area.
7. Roof signs erected upon or completely over the roof of any building.
8. Any sign that is constructed or located so as to resemble a traffic control device, or is located in such a manner so as to obscure or impact the effectiveness of such traffic control device or signal.
9. No person shall display upon any sign or other advertising structure any obscene, indecent or immoral matter.
10. Beacons and searchlights, except for emergency purposes.

### **C. Permits**

No permanent or temporary sign, except as set forth in Exempted Signs (Excluded from Regulations) Section 15.6-D, shall not hereafter be erected, constructed or maintained within the Village of Arcanum unless a permit for the same has been issued by the Enforcing Officer.

Each application for a permit to construct or erect a sign shall be made by the owner, or his/her agent, of the property upon which the sign is proposed and accompanied by a fee set forth and approved by the Village of Arcanum. Application fees are non-refundable.

Applications for a sign permit must include the following information:

1. Name, address, telephone number of the applicant.
2. Drawings to an appropriate scale, showing at a minimum:
  - a. The design and layout of the proposed sign, including the total area of the sign and the size, height, character, materials, and color of letters, lines and symbols.
  - b. If more than one sign face is proposed, separate information on each face shall be provided.
  - c. The exact location of the sign in relation to the building and property.
  - d. The method of illumination, if any.
3. Details and specification for the construction, erection and attachment of the sign.
4. Name, address and telephone number of the sign contractor or company.
5. The time period for which the sign is to be displayed, if a temporary sign.
6. Other information as may be required by the Enforcing Officer to ensure compliance with the provisions of this Zoning Code.

Sign permits shall be issued or denied within fourteen (14) working days from date the application is filed. If the application is denied, the applicant shall be given written notice of such denial, which shall include the reasons for the denial.

Any denial made by the Enforcing Officer may be appealed to the BZA.

#### **D. Exempted Signs (Excluded From Regulations)**

1. Governmental signs or other municipal signs for traffic control and other regulatory purposes, and such temporary emergency, or non-advertising signs as may be authorized by Council.
2. Flags, emblems, and insignias of any governmental agency, educational, charitable, civic, religious or like campaign, drive, or event.
3. Commemorative plaques and/or memorial signs and names of buildings and date of construction when etched or cut into any surface.

#### **E. Miscellaneous Signs And Requirements**

The provisions and regulations of this Zoning Code shall not apply to the following signs; however, they must meet the requirements set forth herein, and shall not be illuminated nor animated. In addition, there shall be no more than one (1) such sign per use per each street front of the lot on which the sign is located.

1. Political signs or posters concerning candidates for elective office, or public issued and similar matters to be decided by public election, to be displayed beginning no more than thirty (30) days prior to election and to be removed no later than one (1) week after such election, subject to penalty. Such signs shall not exceed more than six (6) square feet in any zoned residential area and shall not exceed thirty-two (32) square feet in other zoned areas.
2. Parking or directional signs not over two (2) square feet in area, provided the sign contains no advertising matter.
3. Real Estate signs which indicate the sale, development, or lease of a particular structure or land in residential areas, provided said signs shall not exceed four and one-half (4 ½) square feet, while signs in non-residential areas shall not exceed sixteen (16) square feet. Any real estate sign displayed at locations other than on the premises offered for sale must have approval of property owner. Open house announcements may be placed on the property one week prior to date of open house. "Sold" signs shall be limited to one per property and permitted for a period of two (2) weeks after closing of the property.
4. Professional or occupational signs not exceeding two (2) square feet in area that are customarily associated with residential use and are not of a commercial nature, and mounted or attached flat or parallel onto a building which designates the name and address of an occupant(s) in a building.



5. Signs not visible or intended for view beyond the boundaries of the lot or parcel upon which they are located.
6. Signs clearly in the nature of decorations customarily associated with a national, local or religious holiday. Such signs shall not be a safety and/or visibility hazard.
7. Signs within a stadium, open-air theater, building, arena, or other structure, which signs can be viewed only by persons within the above-mentioned structures.
8. Miscellaneous signs, including but not limited to, credit card decals, store hour specifications, "open" or "closed" signs, or similar signs that do not exceed an aggregate area of two (2) square feet.
9. Advertisements or promotions of non-profit organizations, or community activities and/or festivals, activities sponsored by the Village of Arcanum, welcome messages (such as those for class reunions, conferences, athletic tournament participation, musical plays, and promotion of sales and money-raising events for youth organizations.)
10. Church, School, Multi-Dwelling and Institutional Signs. Bulletin boards and signs for a church, school, community, or other public or semi-public institutional buildings and multiple dwelling surfaces shall not exceed thirty-two (32) square feet in area including frame, wall, or ground signs with a maximum height of six (6) feet above grade for ground signs and located not less than ten (10) feet from the street right-of-way line. Such signs may be illuminated but only from a concealed light source.
11. Personal signs which advertise the sale of personal property, such as a garage, yard, porch or moving sale.
12. Auction signs shall not exceed thirty-two (32) square feet and shall be posted no more than thirty (30) days before the date of the sale and shall be removed immediately following such sale.
13. Signs regulating the use of property, including but not limited to, "No Trespassing," "No Hunting," "No Fishing," "Beware of Animals," or "Danger" signs.

#### **F. Business And Industrial Districts**

All signs and advertising structures may be illuminated internally or by reflected light provided the source of light is not directly visible and reflects away from adjoining premises and are not placed as to cause confusion or hazard to traffic, traffic control signs or lights.

No illuminated sign exceeding fifty (50) square feet shall be placed nearer than fifty feet to a residential lot line. No illuminated sign exceeding one hundred (100) square feet shall be placed nearer than one hundred (100) feet to a residential lot line.

1. Business Districts: Wall or ground signs, single or double faced, shall not exceed fifty (50) square feet in area for each face, with the exception that

the sign is used for two (2) or more uses, the area shall not exceed one hundred (100) square feet. Maximum height above grade shall not exceed forty (40) feet. One (1) sign for each street front may be used.

2. Industrial Districts: Wall or ground signs, single faced shall not exceed one hundred (100) feet in length and shall not be located within one hundred (100) feet of any other ground sign, except when separated by an intervening building. Not more than one (1) such sign shall be permitted on contiguous property titled to the same owner.

#### **G. Temporary Signs**

1. Construction signs denoting the architect, engineer or contractor when placed upon premises under construction, and not exceeding sixteen (16) square feet in area. Said signs shall be removed upon completion of the construction project.
2. Banners less than twenty (20) square feet in area are permitted as temporary signs, provided that they are secured at each corner point and/or end so as to prevent movement.
3. Streamers are prohibited.
4. Banners erected above roadways must have approval of the Enforcing Officer and shall be erected and removed by Village personnel only.
5. Temporary, free-standing signs not exceeding six (6) square feet per side with no more than two (2) sides in residential districts identifying one (1) or more family member of said household for non-commercial purposes.

#### **H. Non-conforming Signs**

Non-conforming signs may be continued if they are in good condition.

A non-conforming sign shall not be structurally relocated or replaced unless it is brought into compliance with the provisions of this Zoning Code.

The continuance of an existing sign which does not meet the regulations and requirements of this Zoning Code shall be deemed a non-conforming sign which shall be removed when any of the following conditions occur:

1. When the sign is associated with an abandoned use, the sign shall be removed immediately.
2. When the sign remains after termination of a business, which shall be defined as a business that is closed to the public for at least ninety (90) consecutive days. Seasonal businesses are exempt from this requirement.
3. When the sign is not maintained or does not conform to the following:
  - a. All signs, together with all supports, braces, guys and anchors shall be kept in a proper state of repair.
  - b. Every sign and the immediately surrounding premises shall be maintained by the owner, or his agent, in a clean, sanitary and

inoffensive condition, free from all obnoxious substances, rubbish and weeds.

- c. In case damage occurs to the extent that more than fifty percent (50%) of the replacement value is lost, the sign shall be removed within sixty (60) days.

## **SECTION 15.7 – SWIMMING POOLS**

### **A. General Provisions**

A zoning permit shall be required for the construction or installation of any private swimming pool. The owner of the property, or his agent, shall certify that the pool will be constructed, installed, and maintained in conformance with the requirements within this Section.

Private swimming pools for recreational water use can include in-ground pools, and above-ground pools. A private spa or hot tub with a lockable cover shall not be considered as a "swimming pool" subject to the provisions of this Section.

No swimming pool, excluding portable swimming pools with an area of less than one hundred (100) square feet, shall be allowed in any residential district unless the following conditions and requirements are met:

1. All of the above must be in excess of seventy-five (75) cubic feet and/or have met a water depth of eighteen (18) inches when full;
2. Shall be used by residents and guests only;
3. Shall be set back six (6) feet from side and rear property lines and twenty-five (25) feet from front property lines;
4. Shall be located six (6) feet from any dwelling;
5. Pool along with any other accessory structures; including walks, paved areas, and appurtenances thereto, cannot occupy more than thirty-five (35%) of the actual rear yard area;
6. Such pool, shall not be located in any front yard, nor closer than ten (10) feet to any property line or structure;
7. All lights used for the illumination of the swimming pool and adjacent areas shall be designed, located and installed so as to confine the direct beams thereof to the lot or parcel on which the pool is located;
8. All pools shall be enclosed with a secured cover and/or a fence so as to prevent uncontrolled access that is a minimum of four (4) feet high and a maximum of six (6) feet high and so constructed as will not shut off light or air to any buildings. Additional pool fencing requirements apply as follows:
  - a. Fencing/screening attached at the top of the pool structure or decking can only be a maximum of four (4) feet high.
  - b. Fence must be maintained in good condition and affixed with an operable gate and lock;

- c. All such fences shall be constructed of steel or wood posts properly supported and braced by top rails that shall be located on the inside of the fenced enclosure. Except as otherwise permitted by the Enforcing Officer, all posts are to be firmly attached to or imbedded in concrete thirty (30) inches below grade line;
- d. Fencing shall consist of steel or wood pickets, chain link or solid boards. No barbed wire shall be permitted.

## **SECTION 15.8 – DECORATIVE WATER FEATURE**

The intent of this section is to set specific conditions for various uses of water features to promote public health, safety, and welfare. It is the intent of the Section to permit water features such as decorative, oriental, or a pondscape, but to prohibit ponds for recreational, commercial, or industrial purposes.

### **A. General Provisions**

1. A zoning permit shall be required for the construction, alteration, or expansion of any water feature within the village.

### **B. Size, Location, and Yard Usage Limitations**

1. No water feature shall exceed sixty (60) square feet.
2. Water features shall be located a minimum of two (2) feet from any property line.
3. Water features shall not occupy more than 35% of the total yard area.

### **C. Maintenance and Safety Requirements**

1. Water features shall be maintained in a manner to minimize potential nuisances such noise, odor, and insects.
2. The water feature owner shall be responsible for all maintenance and safety related to the pond.

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## **CHAPTER 16**

### **SUPPLEMENTAL DISTRICT REGULATIONS**

The intent of Supplemental District Regulations is to set specific conditions for various uses and classifications of uses in order to promote public health, safety, and welfare. It is the intent of this Chapter to permit such accessory uses to be established and maintained in a manner which makes them compatible with principal uses and harmonious with uses upon adjacent properties.

#### **SECTION 16.1 – ANTENNA COMMUNICATION REGULATIONS**

##### **A. Dish Type Satellite**

The owner or occupant of any lot, premise, or parcel of land is permitted to erect a twenty-four (24) inch diameter satellite dish and a permit shall not be required for installation. Satellite dish antennas shall be permitted in all zoning districts and are subject to the following requirements:

1. Any dish in excess of twenty-four (24) inches must apply for a permit. On such application, the owner or occupant shall certify that the requirements of this Zoning Code are met.
2. Satellite dishes in a front yard are prohibited.
3. Setbacks for all satellite dish installations shall be a minimum of six (6) feet from any property line, a minimum of six (6) feet from the edge of public rights-of-way, and of a sufficient safe distance from all overhead and/or underground power lines as determined by the Enforcing Officer.
4. Roof mounted satellite dishes shall be limited to a maximum diameter of 24 inches and shall be mounted in accordance with manufacturer's recommendations and be properly secured to prevent damage from wind and snow loads.
5. No satellite dish shall be linked to receivers which are not located on the same lot or premise.
6. All satellite dish antennas shall be properly grounded, resistant to lightning strikes, and meet all electrical code requirements.
7. All satellite dish antenna systems shall be noncorrosive, designed, engineered, and permanently installed to withstand wind and snow loads specified by the Ohio Basic Building Code.
8. Maximum overall height for ground mounted satellite dish antenna systems shall not exceed fifteen (15) feet.
9. Placement of satellite dish antenna systems within any easement shall be prohibited.

## **B. Radio/Amateur "Ham"/Television Antenna Regulations:**

The aforementioned antennas shall be permitted as an Accessory Use/Structure in residential districts and are subject to the following requirements:

1. Ground-mounted antenna systems installed in residential districts shall be limited to side and rear yard areas.
2. No more than two (2) such antennas shall be permitted on any one lot.
3. Setbacks for all antenna system installations shall be a minimum of six (6) feet from any property line, a minimum of three (3) feet from the edge of public rights-of-way, and of a sufficient safe distance from all overhead and/or underground power lines as determined by the Enforcing Officer.
4. Placement of antenna systems within an easement shall be prohibited.
5. Roof mounted antenna systems shall be limited to a maximum height of 5 feet above the highest structural point. Roof installations shall be mounted in accordance with manufacturer's recommendations and be properly secured to prevent damage from wind and snow loads.
6. Ground mounted antenna systems in residential and business districts shall not exceed a maximum overall height of forty-five (45) feet. Maximum overall height for ground mounted TV antenna systems shall not exceed the lesser of fifteen (15) feet above the highest structural point or fifty (50) feet in total.
7. All antenna systems shall be noncorrosive, designed, engineered, and permanently installed by manufacturer's recommendations for height.
8. Guy wires are prohibited.
9. No telescoping antennas shall be permitted in the Village of Arcanum.
10. Commercial radio and television towers shall be located centrally on a continuous parcel having a dimension at least equal to the height of the tower measured from the center of the base of the tower to all points on each property line.
11. Radio towers for licensed amateur radio stations which exceed the allowable height of structures in the residentially zoned districts shall be limited in height from their base to the distance from the base to the nearest property line

## **SECTION 16.2 – DRIVE-IN SERVICE ESTABLISHMENTS**

Establishments that, by their nature, create periodic lining-up of customers in automobiles waiting to be serviced shall provide off-street areas for these waiting customers. This includes such activities as:

- A. Drive-thru banks;
- B. Quick auto washes;
- C. Drive-in retail outlets; and

- D. Drive-in service and repair drop stations for such items as clothing, appliances, equipment, etc.

Those establishments that can normally serve their customer within three (3) minutes or less shall provide at least five (5) off-street waiting spaces per window. Quick auto washes shall provide at least ten (10) off-street waiting spaces. Where normal customer servicing time is greater than three minutes per car, additional spaces shall be provided on the basis of one additional space per additional minute of waiting time.

### **SECTION 16.3 – HEIGHT REGULATIONS**

- A. Exceptions to Height Limitations - Chimneys, domes, spires, necessary mechanical appurtenances, radio and television towers may exceed district height limitations.
- B. Public, semi-public or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding ninety (90) feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.
- C. Commercial radio and television towers shall be located centrally on a continuous parcel having a dimension at least equal to the height of the tower measured from the center of the base of the tower to all points on each property line.
- D. Radio towers for licensed amateur radio stations which exceed the allowable height of structures in the residentially zoned districts shall be limited in height from their base to the distance from the base to the nearest property line.

### **SECTION 16.4 – HOME OCCUPATIONS**

A home occupation shall be defined as a activity, profession, occupation, service, craft, or revenue-enhancing hobby which is clearly incidental and subordinate to the use of the premises as a dwelling, and is conducted entirely within a residence without any significant adverse effect upon the surrounding neighborhood. Home occupations shall be considered as conditional uses in the various residential districts.

#### **A. General Regulations**

A home occupation shall comply with the following regulations:

1. All home occupations must apply for a conditional use permit.
2. Home occupation means any occupation operated in its entirety within the principal dwelling and only by the person(s) maintaining a dwelling therein.
3. Home occupation shall not generate greater vehicular traffic volume than is normal for a residential neighborhood.
4. Home occupation shall not involve alteration or construction of a premise, not customarily found in a dwelling.



5. Home occupation shall not utilize more than twenty-five percent (25%) of the total floor area of any one story.
6. Shall not utilize any equipment except that which is used normally for purely domestic or household purposes.
7. Shall not display or create outside the structure any external evidence of the operation of the home occupation except for one unanimated, non-illuminated name plate having an area of not more than two (2) square feet, attached flat against the principal structure.
8. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the premises.
9. Activities related to the home occupation shall be conducted primarily within the confines of the principal building on the lot. No home occupation shall be conducted from any accessory building on the lot.

#### **SECTION 16.5 – OUTDOOR FURNACES/ FIREPITS**

It is the purpose of this Section to establish clean air and environmental circumstances free of unreasonable dust, obnoxious odors, noxious fumes and smell within densely populated areas to promote public health, safety, and welfare. All provisions shall be governed by ORC Section 1503.18, and Ohio Administrative Code 3745.19.

- A. No burning within Village limits or restricted areas plus a zone extending one-thousand (1,000) ft beyond the boundaries of any such municipality.
- B. Free standing outdoor furnaces used for the purpose of heating an enclosed structure and that is designed to burn wood or other fuel, including but not limited to, coal, paper or agricultural products, are prohibited within the Village. Recreational outdoor propane heaters are excluded.
- C. Recreational/cooking fires must be no greater than 3ft x 2ft and fueled with clean, seasoned (untreated) firewood and NOT be used for the purpose of waste disposal.
- D. The Village Fire Department may extinguish or require cessation of any fire which is deemed hazardous or objectionable due to smoke, odor or other hazardous conditions pursuant to the Ohio Fire Code (OAC 1301:7-7-03, (G) Section 307.)

#### **SECTION 16.6 – OUTDOOR STORAGE/ WASTE DISPOSAL**

After the effective date of this Zoning Code, all properties must be in compliance with the use of outdoor storage/waste disposal containers, which shall be subject to the following requirements:

- A. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, except in a Light or Heavy Industrial District.

- B. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.
- C. All outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence, wall or planting to conceal such facilities from adjacent residential property.
- D. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by wind, flood, or other natural causes or forces.
- E. All materials or wastes which might cause fumes, dust or which constitute a fire hazard, or which may be edible or attractive to rodents or insects shall be stored outdoors only in closed containers constructed of impervious material.
- F. Compost piles are permitted for biodegradable vegetation. Grass clippings are prohibited.

## **SECTION 16.7 – PROJECTIONS INTO REQUIRED YARDS**

Architectural features may project into required yards or into courts as follows:

- A. Chimneys, flues, sills, pilaster, cornices, eaves, gutters and other similar features may project into a required side yard a maximum of three (3) feet.
- B. No structure may project into a required front yard; however, unroofed porches and steps may extend from the dwelling into the required front yard a maximum of ten (10) feet.
- C. Architectural features such as cornices, canopies, eaves, pilasters, or sills may project into a front yard no more than three (3) feet.
- D. No structure may project into a required side yard, except where a single lot under one ownership existed in a residential district at the time of passage of this Zoning Code.

## **SECTION 16.8 – PUBLIC RIGHT-OF-WAY ACCESS**

A Right-of-Way permit is required for any work to be performed in the public right-of-way including but not limited to, storm drainage, driveway installations (all driveway additions must include an "approach"), sidewalks, curbs and gutters, landscaping, irrigation installation, utility installations, tree removals, or any other excavation of pertinent installation in the right-of-way.

All construction permitted with a Right-of-Way permit must follow all construction standards of the Village of Arcanum.

Applications for Right-of-Way permits shall contain insurance and bonding requirements, where applicable.

The applicant shall complete all work covered by the permit and shall leave the right-of-way, and all appurtenances within the right-of-way, in a condition that is

equal to, or better than that which existed prior to the work taking place. Said work shall be approved and accepted by the Enforcing Officer.

Each application for a Right-of-Way permit shall be accompanied by a fee set forth and approved by the Village of Arcanum. Application fees are non-refundable.

## **SECTION 16.9 – TEMPORARY USES**

The following regulations for a Temporary Use Permit are necessary to govern certain uses which are of a non-permanent nature. A Temporary Use Permit shall be approved by the Enforcing Officer at least seven (7) days before the commencement of such use.

### **A. Application Requirements**

Application for a Temporary Use Permit shall include the following, along with a fee set forth and approved by the Village of Arcanum. Application fees are non-refundable.

1. A drawing showing the property to be used;
2. A description of the proposed use;
3. Information to determine that all setbacks, parking, and requirements for sanitary facilities are met;
4. Any requested permit in a parking lot must be accompanied by written permission of the property owners, shall be prominently displayed at the site, and must not encroach upon more than twenty-five percent (25%) of the required parking area; and
5. Any other information required by the Enforcing Officer for the proposed temporary use.

### **B. Regulations For Temporary Uses**

Temporary uses of public land are exempt from the requirements of this Section. The following uses are deemed to be temporary uses and shall be subject to the specified regulations and time limits which follow, as well as the regulations of any district in which they are located:

1. Temporary building or yard for construction offices, material, or equipment required in conjunction with construction activity, provided such use is adjacent to the construction site and for a period of six (6) months or less. Extensions may be granted if construction is underway. Such uses shall be removed when construction is complete, upon expiration of the Temporary Use Permit, or when construction is discontinued for more than thirty (30) days, whichever occurs first.

2. Temporary real estate sales offices, which contain no living accommodations, shall be permitted for a period of one (1) year and may be renewed for one (1) additional year if conditions warrant such renewal.
3. Temporary sales and services may be permitted within parking areas within any business district. A zoning permit valid for a period not to exceed four (4) consecutive days shall only be issued three (3) times within any twelve (12) month period to any individual or organization. The application for the Temporary Use Permit shall be accompanied by written permission of the property owner.
4. Tents, as described in the definitions herein, will be considered a temporary use. However, if a tent is to be erected for more than seven (7) days, the Enforcing Officer may require a Conditional Use Permit.

#### **SECTION 16.10 – WATER WELLS**

- A. No new private water wells shall be installed by a property owner within the Village of Arcanum for personal use from the date of the enactment of this Zoning Code.
- B. No existing wells are to be connected by any means to the Village Water System.
- C. The Arcanum-Butler School District Board of Education ("Board of Education") shall be exempt only for the purpose of installing and maintaining irrigation well(s) with the following stipulations:
  1. Irrigation well(s) installed and owned by the Board of Education may only be used for irrigation of recreational fields. No other uses shall be permitted.
  2. Irrigation well(s) installed and owned by the Board of Education shall comply with all requirements outlined by the Darke County Health Department and any other authority having jurisdiction.
  3. The Board of Education shall allow the Enforcing Officer to make such periodic inspections as may be necessary from time to time to ensure compliance herewith.

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## **CHAPTER 17 DEVELOPMENT PLAN REVIEW**

### **SECTION 17.1 – GENERAL PROVISIONS**

If a proposed development includes land that is zoned for residential, business, or industrial uses, the proposed development shall be subject to the approval of a Development Plan by the Planning and Zoning Commission, pursuant to the guidelines in this Section and the zoning district where the development is planned. In reviewing such Development Plan, the Planning and Zoning Commission shall have the authority to modify and/or reduce the requirements of this Zoning Code when, on the basis of evidence submitted by the Owner/Developer, it is determined that such modification is warranted. This Development Plan Review covers Planned Unit Development (PUD) or Subdivisions which shall be considered Major or Minor based on the following criteria:

Major Subdivision/PUD is a development not currently supported with streets or infrastructure.

Minor Subdivision/PUD is a development within the current zoned districts supported with streets and infrastructure.

#### **A. Pre-Application**

No person, firm or corporation shall subdivide territory within the corporate limits of the Village, enter into any contract for the sale of, or offer to sell, any subdivision or any part thereof, or proceed with any construction work on a proposed subdivision, until approval has been obtained from the Enforcing Officer.

A developer is encouraged to meet early and informally with the Enforcing Officer and the Planning and Zoning Commission prior to the submission of the preliminary Development Plan. The purpose of this meeting is to discuss conformity to these subdivision regulations and the thoroughfare plan and other applicable criteria and standards contained herein, and to familiarize the developer with the development process, other provisions of this Zoning Code, and infrastructure systems within the Village. If a zoning change is to be requested for any development, a separate Zoning Amendment application shall be required.

#### **B. Application Requirements**

An application for preliminary development shall be filed with the Enforcing Officer and the Planning and Zoning Commission by the owner/developer of the property for which the development is proposed. The preliminary plan must cover the entire contiguous ownership of the applicant unless the applicant specifically states in writing that he/she does not intend to develop

the withheld portion of the tract for at least five (5) years. At a minimum, the application shall contain the following information:

1. Name, address, and phone number of applicant.
2. Name, address, and phone number of developer.
3. Name, address, and phone number of registered engineer, architect, and surveyor.
4. Legal description of the property.
5. Description of the existing use of the property.
6. Current and proposed zoning districts.
7. A vicinity map at a suitable scale, showing property lines, streets, existing and proposed zoning for all property included in, and adjacent to, the proposed site.
8. Proposed schedule for the development of the site.
9. Evidence that the applicant has sufficient control over the land in question to effectuate the proposed Development Plan.
10. A Preliminary Development Plan drawn to scale, prepared by a registered architect, registered engineer, and/or registered landscape architect. Such plan shall contain the following information:
  - a. North arrow, date, and scale.
  - b. Selected uses by area or specific building location, allocation of land use by type as measured in acres, adjacent existing land use, right-of-way, and relationship to adjacent land use. Names of adjacent subdivisions and owners of adjoining parcels or unsubdivided land shall be included.
  - c. General location of thoroughfares, including type, as well as location and size, measured in number of parking spaces for all off-street parking areas, including curb cuts.
  - d. Open space and the intended uses therein, with acreage provided.
  - e. Residential land uses summarized by lot size, dwelling type and density.
  - f. Provide exterior aesthetics including color cosmetics/schemes to ensure harmony within the zoned district and not be detrimental to the overall comprehensive plan for the desirable development of the Village and the planning process that is reflected in this Zoning Code.
  - g. Existing and proposed roads, buildings, utilities, permanent facilities, easements, right-of-way, and abutting property boundaries. Each residential dwelling/unit on the property will be required to have its own sewer and water tap and water meter. (See Chapter 11, Section B4 PUD).
  - h. Physical features and natural conditions of the site including soils, the location of vegetation, and existing tree lines.

- i. Existing contours in intervals of two (2) feet to show existing natural drainage, surface drainage, and areas subject to flooding.
- j. Preliminary plan for water, sewer, storm drainage, and other utility systems. Show existing sanitary sewers, storm sewers, water mains, culverts, or other underground infrastructure within the site or immediately adjacent properties with pipe sizes, pipe types, grades, and locations. Include names, addresses, and phone numbers for utility owners.
- k. Other improvements as required by the Enforcing Officer, and Planning and Zoning Commission, and an engineer selected by the Village.
- l. Preliminary typical section of parking area, including dimensions of parking spaces and total number of handicap and standard spaces.
- m. Preliminary cross section of drive approaches and utility laterals.
- n. Every subdivision shall be required to provide complete public utilities, including water, sanitary sewers and storm sewers, and full street improvements, including street paving, curbs, gutters, and sidewalks.
- o. Preliminary location, size, pipe type and grades of proposed sanitary sewer, storm sewer, and proposed water mains, including location of fire hydrants and water valves. Upon request, provide design data, profiles, and drainage calculations.
- p. OUPS (811) Reference Number.
- q. The location of all survey monuments and their descriptions.
- r. The radii, delta angles, tangents and length of curves for all curvilinear streets and radii for rounded corners.
- s. Standard general notes and design details per Village Specifications.
- t. Label appropriate setbacks as required by the appropriate zoning district.
- u. Location, setbacks, and dimensions of proposed signage.
- v. Location of trash receptacles and proposed screening.
- w. Location, dimension, and describe plan of landscaping, screens or buffers as required by the appropriate zoning district.

Ten (10) copies of the completed application and Preliminary Development Plan shall be submitted to the Enforcing Officer. Failure to submit a complete application shall result in a refusal of acceptance. The Enforcing Officer shall transmit the complete application package to the Planning and Zoning Commission for review and comment.

### **C. Planning & Zoning Commission Application Review**

Before making its determination, the Planning and Zoning Commission shall find that the facts submitted with the application follow the requirements set forth below:



1. Each individual part of the development, as well as the total development, can exist as an independent unit capable of creating an environment of public health, safety and welfare within the community; the uses proposed will not impose undue adverse impacts on adjacent uses, but will have a beneficial effect which could not be achieved under standard district regulations.
2. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate volumes of traffic which would overload the street network outside the development.
3. Any proposed commercial development can be justified at the proposed locations.
4. Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final Preliminary Development Plan.
5. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
6. The existing public services are adequate for the population densities and uses proposed and in conformance with capital improvements planned for the area.

In making its recommendation, the Planning and Zoning Commission may seek the assistance and input of outside consultants and/or experts procured for that purpose. The Planning and Zoning Commission shall make a determination to approve, approve with conditions or modifications, or deny the request for Preliminary Development Plan within sixty (60) days.

#### **D. Planning & Zoning Commission Action**

1. Not later than twelve (12) months from the approval of the Preliminary Development Plan, the developer shall submit ten (10) copies of the Final Development Plan to the Enforcing Officer and the Planning and Zoning Commission. The Final Development Plan shall be in general conformance with the Preliminary Development Plan. Failure to submit a Final Development Plan within the specified time period shall render the approved Preliminary Development Plan and the rezoning of the property null and void.
2. An application for approval of the Final Development Plan shall be filed with the Enforcement Officer by at least one (1) owner or lessee of property for which the development is proposed. Each application shall be signed by the owner or lessee, attesting to the truth and exactness of all information supplied on the application for Final Development Plan. The Final Development Plan shall be prepared by a registered architect or engineer and, at a minimum, shall include the following information and materials:

- a. Survey of the proposed development site, showing the dimensions and bearings of the property lines, areas in acres, topography, existing features of the development site, including major wooded areas, structures, streets, easements, utility lines and land uses. The survey shall include the Surveyor's name and contact information.
- b. All the information required in the Preliminary Development Plan, including the location and sizes of lots, non-residential building intensity, and land use considered suitable for adjacent properties.
- c. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres on the proposed project for various uses; estimated future occupation; anticipated timing for each unit; and population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from standard zoning districts or other resolution governing development.
- d. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone and natural gas installations, geotechnical report, drainage report, traffic studies, waste disposal facilities, street improvements, and the nature and extent of earth work required for traffic circulation and for site preparation and development.
- e. Completely detailed plans for the construction of all improvements contemplated by the approval of the Preliminary Development Plan to completely improve all of the land included in the final plan.
- f. Plan and profile of all sanitary sewers, storm sewers, and water mains.
- g. Design data for sanitary sewers, storm sewers/detention, and water mains.
- h. Vertical and horizontal control data.
- i. Site grading plan showing existing and proposed contours referenced to Village datum with intervals of two (2) feet needed to show proposed drainage upon completion of construction.
- j. Cross sections of drive approaches, utility laterals, and any other unique features.
- k. Site plan, showing building(s), various functional use areas, traffic circulation, and their relationship.
- l. Architectural renderings and accompanying narrative to discuss in detail the design treatment of all buildings and structures where applicable.
- m. Plans for landscaping.
- n. Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance

of land, and the improvements thereon, including those areas which are commonly owned and maintained.

- o. All detailed construction plans shall be reviewed by the Solicitor and selected Village engineer to determine the compliance of plans with the laws of the State, the Ordinances of the Village, and good engineering practices. Only the signature of the selected Village engineer on such plans shall indicate the general conformance with such regulations.
  - p. Final Record Drawing shall be filed with the Enforcing Officer upon completion of the development.
- 3. Within sixty (60) days from submittal of the items specified for approval of the Final Development Plan, the Planning and Zoning Commission shall recommend to Council one of the following:
  - a. Recommend that the Final Development Plan be granted as requested;
  - b. Recommend a modification of the Final Development Plan as requested; or
  - c. Recommend that the Final Development Plan be denied.

The written recommendation from the Planning & Zoning Commission shall indicate the specific reason(s) upon which the recommendation is based, including the basis for their determination that the proposed Final Development Plan is or is not consistent with the comprehensive plan.

#### **E. Village Council Criteria/Public Hearing/Ruling**

Affirmative/Adverse recommendations - When Council receives an affirmative or adverse recommendation from the Planning and Zoning Commission on a proposed Final Development Plan the following procedure shall be followed:

- 1. Within sixty (60) days of the receipt of the recommendation from the Planning & Zoning Commission on a Final Development Plan, a public hearing shall be held in accordance with ORC 713.12. Notice of the public hearing shall be given by Village Council by at least one publication in one or more newspapers of general circulation in the Village. Said notice shall be published at least thirty (30) days before the date of the hearing. The published notice shall set forth the time, date, location of the public hearing and a summary of the proposed Final Development Plan.
- 2. Notice to Property Owners: If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail at least twenty (20) days before the day of the public hearing to all owners of property within two-hundred (200) feet contiguous to, and directly across the street from, such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the

application. Notice should also set forth the time and place of the public hearing and a summary of the proposed amendment. The failure to deliver the notification as provided in this Section shall not invalidate any such amendment.

3. Within thirty (30) days after the required public hearing, the Village Council shall:
  - a. Adopt or modify the recommendation of the Planning & Zoning Commission with an affirmative vote of at least a majority of the membership of Village Council.
  - b. In the event the Village Council denies or modifies the
  - c. recommendation of the Planning & Zoning Commission, it must do so by not less than three-fourths (3/4) of the full membership of Village Council.

No such legislation approving said Development Plan shall be passed unless it has been fully and distinctly read on three (3) different days except that said legislation may become emergency legislation if three-fourths (3/4) of the members of the Village Council vote to dispense with the three-reading rule.

The approval of the Final Development Plan shall be for a period not to exceed two (2) years. If no construction has begun within two (2) years after approval is granted, the approved Development Plan shall be null and void. An extension of this time limit, for a specific period, may be approved if the Planning and Zoning Commission finds that such extension is necessary due to conditions beyond the control of the applicant.

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## **CHAPTER 18**

### **CONSTRUCTION STANDARDS, REGULATIONS, AND DEMOLITION**

It is the purpose and intent of this chapter to provide regulations for any construction and/or demolition to follow all provisions of the Zoning Code, and to promote and protect the public health, safety and general welfare of all adjacent and neighboring properties.

#### **SECTION 18.1 – CONSTRUCTION STANDARDS & REGULATIONS**

##### **A. Required Regulations**

1. Standard hours of construction operation in residential districts shall be from dawn to dusk.
2. Noise or vibration shall be so controlled as to not be above a level that is customarily expected from construction sites.
3. Dust/particulate matter, odor, and fumes, shall be controlled as to not produce any hazardous, offensive, or unhealthy situation.
4. Reflective signage should be placed around property to identify construction area.
5. No construction materials shall be temporarily stored on streets without appropriate reflective signage/cones for no more than five (5) consecutive days without prior approval by the Enforcing Officer or his/her designee.
6. All persons, firms, or other property owners or residents shall abide by ORC 4511.74 and ORC 5589.10.
7. All waste or debris shall not be allowed to accumulate to cause hazardous conditions to the safety and welfare of the community, and will be deemed a violation at the discretion of the Enforcing Officer or his/her designee.
8. Measures must be taken to ensure the general public's safety and comply with accepted building industry safety practices as reflected in the building code applicable in the State of Ohio and Village standards for construction site safety measures.

#### **SECTION 18.2 – DEMOLITION OF STRUCTURES**

##### **A. Required Regulations**

1. No person, firm or corporation shall demolish any building or structure that is more than 800 square feet without obtaining a permit from the Enforcing Officer or his/her designee.
2. Any person, firm, or corporation in control of demolishment of any structure must have Village Utility personnel disconnect all utilities prior to any issuance of a demolition permit.
3. All regulations listed in Section 18.1 (A) must be followed for demolition.

- B.** Upon completion of demolition, any property owner, firm, or corporation in control shall provide restoration of site to include:
1. All surface irregularities, well, septic tank, basements, cellars, sidewalks/steps, vaults, or coal chutes shall be filled with materials that are approved by the Village to a level or other grade determined to be appropriate by the Enforcing Officer.
  2. Provide for the disposal of all debris at the completion of demolition.
  3. Site must be prepared with sufficient ground cover to prevent and control soil erosion.
  4. Demolition must be completed within thirty (30) calendar days from issuance of permit. Time limit may be extended at the discretion of the Enforcing Officer or his/her designee under extenuating circumstances.

### **SECTION 18.3 – ENFORCEMENT**

- A.** A stop-work order may be issued if any provisions of this Zoning Code is violated. Subsequent to the Enforcing Officer's determination that work is being done contrary to this Zoning Code, the Enforcing Officer shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the Enforcing Officer, shall constitute a punishable violation of this Zoning Code.
- B.** All Penalties and fines shall be governed by Section 3.3 of this Zoning Code.

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