

# **Zoning Code**

## **Village of Waite Hill Lake County, Ohio**

**April 2012**

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**SECTION 1119.01 TITLE.**

These rules, regulations, procedures and accompanying maps shall be known, cited and referred to as the Village of Waite Hill Zoning Code. This Zoning Code includes standards and/or procedures for planning and developing land within the Village.

**SECTION 1119.03 AUTHORITY AND SCOPE.**

This Zoning Code is adopted by the Village pursuant to its authority under the Ohio Constitution, the Ohio Revised Code Chapter 713 and the Village of Waite Hill Charter. Nothing in this Zoning Code shall be construed to limit the Village Council in the exercise of all of the powers to zone or redistrict now or hereafter as authorized by the Ohio Constitution, the Ohio Revised Code, or the Village Charter.

**SECTION 1119.05 PURPOSE.**

- (a) In general, the purpose of this Zoning Code is to promote and protect the public health, safety, convenience, comfort, prosperity and general welfare by regulating and limiting the use of land, areas and buildings and the erection, restoration, conversion and alteration of buildings and additions thereto and the use of land for residential purposes; to regulate the area and dimensions of land, yards, setbacks, and open spaces so as to secure adequate areas for water supply and to prevent the pollution thereof; to enhance the taxable value of land and buildings throughout the Village; to avoid congestion by the regulation of the density of population; to regulate and restrict the bulk, height, design, percent of lot occupancy and the location of buildings; to assure the orderly and beneficial development of land and to provide an orderly plan for the economical and best use of public facilities, such as future water supply and distribution systems, sewage collection and disposal systems.
- (b) More specifically, but without limitation of the general purpose hereinbefore set forth, the purpose of this Zoning Code is to:
- (1) Preserve the character of the community.

- (2) Provide for some grouping of one-family dwellings and to thereby preserve the value of lands and buildings to better insure the future against burdens of taxation.
- (3) Provide a plan which will result in the use of lands in the Village in accordance with a mode of life compatible with its topography, location with respect to other communities and with its existing and contemplated character.
- (4) Provide for the creation of a variety of designs in architecture by so districting the Village as to give a choice to owners and prospective owners with respect thereto.
- (5) Plan the Village future growth and its economic, social and cultural well being in a manner compatible with the natural phenomena by establishing districts whereby the natural topography and attributes of the area in each district will be best utilized, thereby minimizing the waste of lands.
- (6) Preserve areas for conservation of natural resources, such as underground water supplies, woods, lakes and streams, and prevent unnatural erosion of lands resulting from unplanned and promiscuous use solely for the purpose of providing building sites without regard to the future general welfare of the Village.
- (7) Provide for a community having a similarity of interests to the end that the economic base of the Village will be stabilized and thereby avoid excessive costs in local government resulting from excessive amount of public roads, streets and highways.
- (8) Make provisions so as to avoid unnecessary capital outlay for public utilities such as water distribution and sewage collection systems.
- (9) Pursue and encourage the preservation and conservation of open space in the Village by promoting development in a manner planned to harmonize with natural surroundings, for the purpose of, but not limited to, the following:
  - A. Maintaining a living unit density consistent with Village tradition and the ability of the environment to absorb increased development;
  - B. Protecting and preserving the value, appearance and use of property through the preservation of the historic character and lifestyle consistent with the development of the Village;
  - C. Maintaining quality development;
  - D. Preserving the aesthetic value of scenic open space within the Village;

- E. Preserving wildlife habitat and valuable hydrologic systems; and,
  - F. Promoting the continuation of agricultural activity.
- (10) Establish a public policy which encourages the preservation of open space, to encourage private strategies preserving and conserving open space in the Village by and through the creation of scenic and other easements, gifts of land, deed restrictions and other private preservation and conservation strategies.

#### **SECTION 1119.07 APPLICABILITY.**

- (a) No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Zoning Code and, when required, after the lawful issuance of the certificates(s) or permit(s) required by this Zoning Code.
- (b) Existing lots, buildings, structures and uses of land that do not comply with the regulations of this Zoning Code are subject to the regulations set forth in Chapter 1135, Non-conforming Uses, Lots, and Structures.
- (c) No lot, setback, parking area, open space, or other space shall be reduced in area or dimensions so as to make such area or dimension less than the minimum required by this Zoning Code. No part of a setback, parking area, open space or other space provided about or for any building or structure for the purpose of complying with the provisions of this Code shall be included as part of a required setback, parking area, or other space required under this Code for another building or structure.

#### **SECTION 1119.09 RELATIONSHIP TO PLANS.**

It is the intention of Council that this Zoning Code implements the planning policies reflected in the Village of Waite Hill's planning documents. While the Council reaffirms its commitment that this Zoning Code, as amended, be in conformity with adopted planning policies, Council hereby expresses its intent that neither this Zoning Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

#### **SECTION 1119.11 RELATIONSHIP TO OTHER LAWS.**

The provisions of the Zoning Code shall supplement any and all laws of the State, the Charter and ordinances of the Village, or any and all rules and regulations promulgated by authority of such law or ordinance relating to the purpose and scope of such Zoning Code.

#### **SECTION 1119.13 SEPARABILITY.**

Sections and sub-sections of this Zoning Code and the several parts or provisions thereof are hereby declared to be independent sections, sub-sections, parts and provisions. If any provision of this Zoning Code, or amendment thereto, or any application of any provision to particular circumstances is held to be invalid or unconstitutional by any court of competent jurisdiction, such

decision shall not affect the validity of the remaining portions of this Zoning Code or amendments thereto, or the application of such provision to other circumstances.

**SECTION 1119.15 INTERPRETATION AND APPLICATION.**

- (a) Unless specifically noted otherwise, in interpreting and applying the provisions of this Zoning Code, these provisions shall be considered the minimum requirements necessary for the promotion of the public health, safety, and general welfare. They shall be liberally construed to further the purposes and objectives set forth herein and the purposes and intent of each district as set forth in each district section.
- (b) Except as specifically provided herein, the provisions of this Zoning Code shall not repeal, abrogate, annul or in any way impair or interfere with any existing deed or plat restrictions, ordinances, laws, rules, or permits previously adopted or issued, and shall not be construed as removing or rendering inoperative any deed or land restriction formerly established by restrictive covenants running with the land, easements, or other agreements between parties.
- (c) In cases where this Zoning Code imposes a greater restriction upon the use of buildings or land or upon the height and/or bulk of buildings, or requires larger lot area, yards, setbacks, or other open spaces than are imposed or required by such other laws or ordinances, or by such rules and regulations, the provisions of this Zoning Code shall govern. Conversely, other regulations shall govern where they are more restrictive in nature than this Zoning Code.
- (d) If the provisions of this Zoning Code are inconsistent with one another, the more restrictive provision shall control.

**CHAPTER 1121**  
**Definitions**

1121.01	Interpretation
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**SECTION 1121.01 INTERPRETATION.**

For the purpose of this Zoning Code, terms or words used herein shall be interpreted according to this Chapter. In the case of a discrepancy in meaning or implication between the text of this Code and any illustration or caption, the text shall control.

- (a) The word "shall" signifies a mandatory requirement, one that is not discretionary; the word "may" signifies a permissive or discretionary requirement; and the word "should" is a preferred requirement.
- (b) The word "structure" includes the word "building."
- (c) The word "person" includes a firm, association, organization, partnership, trust, company, corporation, or any other legal entity including its agents as well as an individual.
- (d) The words "used" and "occupied" include the words "arranged, designed, constructed, altered, or intended to be used."
- (e) The word "lot" includes the words "plot" and "parcel."
- (f) The words "Board of Appeals" or "Appeals Board" shall mean the Village of Waite Hill Board of Zoning Appeals.
- (g) The words "the Commission" or "Planning and Zoning Commission" shall mean the Village of Waite Hill Planning and Zoning Commission.
- (h) The words "Waite Hill" shall mean the Village of Waite Hill, Ohio.
- (i) The words "Zoning Code" means the Zoning Code of the Village of Waite Hill, Ohio.
- (j) The words "this Code" mean the Zoning Code of the Village of Waite Hill, Ohio.
- (k) "Council" means the Village Council of Waite Hill, Ohio.
- (l) The words "Review Board" or "Architectural Board of Review" means the Architectural Board of Review of the Village of Waite Hill.

- (m) The word “County” means Lake County, Ohio.
- (n) The words “Village Engineer” mean the engineer of the Village of Waite Hill, Ohio.
- (o) The words “Zoning Administrator” mean the individual designated to administer the Zoning Code of the Village of Waite Hill, Ohio. A person designated by the Zoning Administrator may also perform duties of the Zoning Administrator.
- (p) ORC shall mean the Ohio Revised Code. This Zoning Code cites specific code sections from the ORC, and while these code sections may change after the adoption of this Zoning Code, the intent of these referenced sections shall remain.
- (q) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (r) "Such as" shall be construed as introducing a typical or illustrative enumeration of uses or examples.
- (s) "Regulation" means a rule, restriction or other mandatory provision intended to control, require or prohibit an act.
- (t) Whenever a number of days are specified, days shall mean calendar days unless specifically noted otherwise.

### SECTION 1121.03 DEFINITIONS.

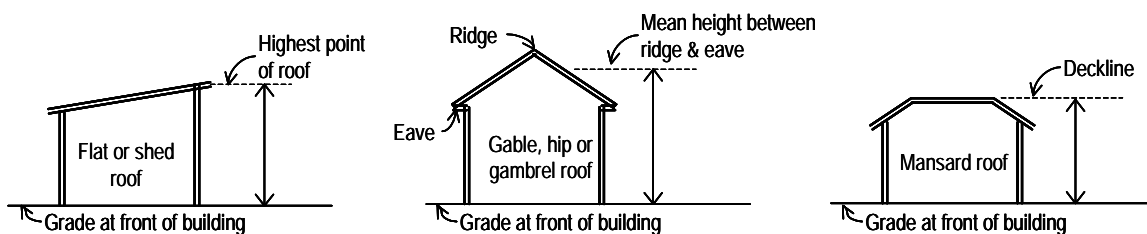
- (a) Words used in this Code are used in their ordinary English usage.
- (b) For the purpose of this Zoning Code, the following terms shall have the meaning herein indicated:
  - (1) **Abut.** To physically touch or border upon; or to share a common property line but not overlap. See adjacent.
  - (2) **Accessory structure.** A STRUCTURE on the same lot with, and of a nature customarily incidental and subordinate to, the PRINCIPAL BUILDING, such as but not limited to fences, flagpoles, gazebos, etc. See also STRUCTURE.
  - (3) **Adjacent.** See abut.
  - (4) **Agriculture.** The USE of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry, and necessary ACCESSORY USES.
  - (5) **Basement or cellar.** That portion of a BUILDING located at least partly underground but having at least 1/2 of its clear floor-to-ceiling height below the average grade of the adjoining ground.



- (6) **Berm.** An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.
- (7) **Buffer or buffer yard/area.** A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.
- (8) **Building.** Any STRUCTURE, which is permanently affixed to the land, having one or more floors and a roof supported by columns or walls, which is completely enclosed and is designed or intended for the shelter or protection of persons, animals, or property. For the purposes of this definition, the ground shall be considered a floor.
  - A. **Building, accessory:** A subordinate BUILDING detached from, but located on the same lot as, the principal or main BUILDING, the use of which is incidental and accessory to the PRINCIPAL BUILDING or USE and which is constructed subsequent to the PRINCIPAL BUILDING or PRINCIPAL USE of the land, such as but not limited to a detached garage, storage shed, etc.
  - B. **Building, principal:** A BUILDING occupied by the PRINCIPAL USE of the lot on which said BUILDING is located.
- (9) **Building height.** The vertical distance, measured from the average elevation of the FINISHED GRADE at the front of the BUILDING to the highest point of the roof for a flat or shed roof; to the deck lines of mansard roofs; and to the ridge for gable, hip and gambrel roofs. Where a BUILDING is located on sloping terrain, the height shall be measured from the average FINISHED GRADE at the building walls.

Figure 1.

**Building Height**



- (10) **Caliper.** The American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken at diameter-at-breast-height.

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- (11) **Carpport.** A roofed STRUCTURE, with a foundation, that provides space for the parking of vehicles and enclosed on not more than three (3) sides.
- (12) **Cellar.** See Basement.
- (13) **Cemetery.** Cemetery means land used or intended to be used for the burial of the human dead and which is dedicated for cemetery purposes. This term shall not include crematoriums, mausoleums, mortuaries or columbariums.
- (14) **Church.** See Place of Worship.
- (15) **Civic center.** Grouping of municipal, government, and/or cultural facilities including associated parks and plazas.
- (16) **Commercial motor vehicle.** See subsection 341.01 (c).
- (17) **Common area/property.** Any land area and/or facilities that is held in common ownership by the residents through a homeowners' association, community association or other legal entity, or which is held by the individual members of a condominium association as tenants-in-common.
- (18) **Compliance, Certificate of Zoning.** An official statement asserting that a given BUILDING, other STRUCTURE or parcel of land is in compliance with the provisions of all existing codes or ordinances, or is a lawfully existing NONCONFORMING BUILDING or USE and, hence, may be occupied and used lawfully for the purposes designated thereon.
- (19) **Conservation Development.** An area of land to be planned and developed as a single residential development, in which the minimum lot size and SETBACK requirements may be modified to achieve particular design objectives, while maintaining the same overall density limitations of the district in which the conservation development is located, and allowing for the flexible arrangement and clustering of dwellings.
- (20) **Contour.** An imaginary line connecting all points with the same elevation above or below a fixed base point whose elevation is known.
- (21) **Density.** The number of dwelling units permitted per acre of land.
- A. **Density, Gross.** Gross density means the number of dwelling units permitted per acre of total land area.
- B. **Density, Net.** Net density means the number of dwelling units permitted per acre of land when the acreage involved includes only the land devoted to residential uses and excluding land dedicated to public thoroughfares or other unbuildable land areas, if applicable.

- (22) **Developer.** Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this Zoning Code to effect a DEVELOPMENT of land hereunder for himself or for another.
- (23) **Development.** Any BUILDING, construction, renovation, mining, extraction, grading, dredging, filling, excavation, or drilling activity or operation; any material change in the USE or appearance of any STRUCTURE or in the land itself; the division of land into parcels; any change in the intensity or USE of land, such as an increase in the number of dwellings units in a STRUCTURE or a change to a commercial or industrial use from a less intense USE.
- (24) **Diameter-at-breast-height.** The diameter of a tree trunk measured in inches at a height 4.5 feet above ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point below the split.
- (25) **Driveway.** A private access way used by vehicles and pedestrians for access to a parking space, garage, dwelling, or other STRUCTURE.
- (26) **Dwelling, cluster one-family detached.** A DWELLING UNIT which is designed and used exclusively by one FAMILY and separated from all other DWELLING UNITS by open space from ground to sky, which is grouped with other DWELLING UNITS on a site in an arrangement. The cluster one-family detached dwelling does not need to be located on its own subdivided lot, but shall comply with all applicable requirements. Also known or referred to as a dwelling.
- (27) **Dwelling, one-family detached.** A DWELLING UNIT designed and used for one (1) FAMILY situated on a lot having a FRONT, SIDE, and REAR YARD and separated from all other DWELLING UNITS by open space from ground to sky. Also known or referred to as a dwelling.
- (28) **Dwelling, one-story.** A dwelling in which there are no habitable rooms above the first floor.
- (29) **Dwelling unit.** One or more HABITABLE ROOMS comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one (1) FAMILY.
- (30) **Easement.** A right granted by the owner of land to other parties to use such land for a specific purpose, such as public utility lines or for access to other properties.
- (31) **Established street grade.** The elevation of the street, road or highway, established by the Village of Waite Hill, measured at the center line of such road, street or highway in front of the lot or parcel of land to which the provisions of this Zoning Code apply.

- (32) **Façade.** That portion of any exterior elevation on the BUILDING extending from GRADE to the top of the parapet, wall, or eaves and the entire width of the building elevation.
- (33) **Family.** Family means one (1) or more persons occupying a dwelling unit and living as a SINGLE HOUSEKEEPING UNIT, provided that unless all members are related by blood, marriage, adoption, guardianship, or are FOSTER CHILDREN, no such family shall contain over four (4) unrelated persons.
- (34) **Fence.** See subsection 1141.15 (g).
- (35) **Floor area, gross.** The sum of the gross horizontal areas of all floors of a BUILDING, measured from the exterior faces of the exterior walls of a BUILDING or from the center line of a common wall separating two (2) or more units of a BUILDING, including accessory storage areas located within selling or working space, but not including space in CELLARS or BASEMENTS, space in machinery penthouses or floor space used for accessory off-street parking. However, if the CELLAR or BASEMENT is used for non-residential purposes, it shall be counted as floor area in computing off-street parking requirements.
- (36) **Floor area, net.** The total of all floor areas of a BUILDING, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking; and all floors below the first or ground floor, except when used or intended to be used for human habitation.
- (37) **Foster child.** A person under eighteen (18) years of age who is placed in a DWELLING UNIT by an institution or agency, licensed or approved by an appropriate State-regulating agency to place foster children.
- (38) **Garage.** A BUILDING, or part thereof, used or intended to be used for the parking and storage of vehicles.
- (39) **Grade.** The vertical alignment of a surface of land, as it exists or as rendered by cut and/or fill activities.
- (40) **Grade, finished.** The elevation of the surface of the ground adjoining the BUILDING after construction of required parking area or driveways and after the planting of lawn and shrubbery, or other required improvements to open spaces.
- (41) **Grade, natural.** The elevation of the undisturbed natural surface of the ground prior to any excavation or fill.
- (42) **Grading.** The rearrangement of the earth's surface by stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new CONTOURS or GRADES.

- (43) **Habitable space or room.** Spaces in a BUILDING for living, sleeping, eating and cooking. Bathrooms, toilet rooms, closets, storage or utility areas and similar areas are not considered habitable space.
- (44) **Home occupation.** Any USE or profession conducted entirely within a dwelling and carried on primarily by the inhabitants thereof, which USE is clearly incidental and secondary to the USE of the dwelling for dwelling purposes and does not change its character.
- (45) **Homeowners' association.** A community association that is organized within a DEVELOPMENT in which individual owners share common interests and responsibilities for open space, landscaping, PRIVATE STREETS, or other such facilities.
- (46) **Improvements.** The term means street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the DEVELOPMENT of raw land into building sites.
- (47) **Landscaped area.** An area that is permanently devoted to and maintained for the growing of trees, shrubs, grass or other plant material.
- (48) **Library.** A facility in which literary, musical, artistic or reference materials, such as, but not limited to, books, manuscripts, computers, recordings or films are kept for use or loaning to patrons of the facility, but are not normally offered for sale.
- (49) **Lot.** A parcel of land of sufficient size to meet minimum zoning requirements for USE, coverage and area and to provide such yards/ SETBACK and other open spaces as are required by this Zoning Code. A lot may consist of the following:
- A. A single lot of record;
  - B. A portion of a lot of record;
  - C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or portions of lots of record.
- (50) **Lot area.** See lot size.
- (51) **Lot coverage.** That portion of a LOT, which when viewed directly above, would be covered by BUILDINGS and STRUCTURES, parking and loading areas and other surfaces that are impermeable or substantially impervious to water.
- (52) **Lot frontage.** That portion of the LOT extending along the street right-of-way.

- (53) **Lot line.** The boundary line defining the limits of the LOT. Lot line is synonymous with "property line."
- A. **Lot line, front:** The line separating an INTERIOR LOT from the street right-of-way or PRIVATE STREET on which the LOT fronts. On a CORNER LOT, the street right-of-way with the least amount of street frontage shall be the front lot line.
- B. **Lot line, rear:** The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped LOTS, a line 10 feet in length entirely within the LOT, parallel to and at a maximum distance from the front lot line.
- C. **Lot line, side:** Any lot line other than a front or rear lot line.
- (54) **Lot of record.** A LOT which is part of a subdivision, the part of which has been recorded in the office of the County Recorder, or a LOT or parcel of land described by metes and bounds, the description of which was recorded, prior to adoption of this Zoning Code.
- (55) **Lot size.** The total horizontal area contained within the LOT LINES exclusive of any portion of the RIGHT-OF-WAY of any public street or PRIVATE STREET pavement or easement.
- (56) **Lot types.** Terminology used in this Zoning Code with reference to corner lots, interior lots and through lots is as follows:
- A. **Lot, corner.** A LOT which adjoins the point of intersection or meeting of two (2) or more streets and in which the interior angle formed by the street lines is 135 degrees or less.
- B. **Lot, interior.** A LOT abutting or with frontage on only one street.
- C. **Lot, through:** A LOT having frontage on 2 parallel or approximately parallel streets.
- (57) **Lot width.** The horizontal distance between the SIDE LOT LINES, measured at right angles to the lot depth at the front SETBACK LINE.
- (58) **Lot, zoning.** A parcel of land not separated by street or alley that is designated by its owner or DEVELOPER at the time of applying for a zoning certificate, as a tract all of which is to be used, developed, or built upon as a unit under single ownership. Unless the context clearly indicates otherwise, such as a NONCONFORMING LOT, the term "zoning lot" is used synonymously with "lot" herein.
- (59) **Natural Resource Preserve.** Natural areas established for the protection of natural attributes of local, regional, and/or statewide significance, which may be used in a sustainable manner for scientific research, education, aesthetic

enjoyment, and appropriate uses not detrimental to the primary purpose of natural resource protection. These areas may contain passive recreational activities, such as but not limited to hiking, nature study, and picnicking.

- (60) **Nonconformity.** A LOT, use of land, BUILDING, use of buildings, or use of BUILDINGS and land in combination lawfully existing at the time of enactment of this Zoning Code or its amendments, which do not conform to the current regulations of the district or zone in which it is situated or other regulations in this Zoning Code.
- A. **Nonconforming building.** A BUILDING existing lawfully when this Zoning Code, or any amendment thereto, became effective, but which does not conform to the current regulations governing BUILDINGS and STRUCTURES of the district in which it is located.
- B. **Nonconforming lot.** A LOT lawfully existing on the effective date of this Zoning Code or any amendment thereto, which on such effective date, does not conform to the current LOT AREA, access, LOT WIDTH, frontage, or other requirements of the district in which it is located.
- C. **Nonconforming use:** Any BUILDING or land lawfully occupied by a USE on the effective date of this Zoning Code or any amendment thereto, which does not conform to the current use regulations of the district in which it is situated.
- (61) **Nurseries.** An establishment engaged in growing crops of any kind within or under a greenhouse, cold frame, cloth house or lath house, or growing nursery stock, annual or perennial flowers, vegetables or other garden or landscaping plants. This term does not include a garden supply or landscaping center.
- (62) **Ordinary high water mark.** The point on a stream bank to which the presence and action of surface water is so continuous as to leave a district marked by erosion; destruction or prevention of woody terrestrial vegetation; predominance of aquatic vegetation; or other easily recognized characteristic.
- (63) **Outdoor storage.** The storage of goods, materials, merchandise or vehicles in an area outside of a BUILDING or STRUCTURE in the same place for more than 24 hours.
- (64) **Park facilities.** A tract of land, designated and used by the public, for active and/or passive recreation.
- (65) **Parking facilities.** An outdoor paved area made up of marked or unmarked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area or parking lot.

- (66) **Parking space, off-street.** An open or enclosed area, defined by painted lines, raised curbs or a combination thereof except for when designated for use by one-family dwellings, outside the public street right-of-way that is used for the parking or temporary storage of registered and licensed motor vehicles
- (67) **Performance guarantee.** A financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.
- (68) **Performance standard.** A criterion established to control enclosure, dust, smoke, fire and explosive hazards, lighting, glare and heat, noise, odor, toxic and noxious matter, vibrations and other conditions created by or inherent in uses of land or BUILDINGS.
- (69) **Place of Worship.** A BUILDING or STRUCTURE used for public worship. The words "place of worship" includes the words "church," "house of worship," "chapel," "synagogue," "temple," and "mosque" and their uses and activities that are customarily related.
- (70) **Plan, site.** A plan prepared to scale accurately showing, with complete dimensions, the boundaries of the site, the location of BUILDINGS; landscaping; parking areas; access drives; SIGNS; outdoor storage areas; and any other features that comprise a proposed DEVELOPMENT.
- A. **Preliminary Site Plan:** Drawings and maps including all the elements set forth in Chapter 1127.
- B. **Final Site Plan:** Drawings and maps including all the elements set forth in Chapter 1127.
- (71) **Plan, plot.** A plan of a LOT, drawn to scale, showing the actual measurements, the size and location of any existing STRUCTURE or STRUCTURES to be erected, the location of the LOT in relation to abutting streets, and other such information.
- (72) **Plat.** A map of a lot, tract or subdivision on which the lines of each element are shown by accurate distances and bearings.
- (73) **Porch.** A roofed open STRUCTURE that projects from the front, side or rear wall of a BUILDING.
- (74) **Project boundary.** The boundary defining the tract(s) of land that is included in a proposed DEVELOPMENT to meet the minimum required project area required in this Code. The term "project boundary" shall also mean "development boundary".



- (75) **Public hearing.** An official meeting called by the Village Council, the Planning and Zoning Commission, or the Board of Appeals, duly noticed, which is intended to inform and obtain public comment or testimony, prior to the governing body rendering a decision.
- (76) **Public safety facility.** A municipal, government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.
- (77) **Public service facility.** A STRUCTURE providing for public services such as power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants, and other similar public service structures operated by a public utility, by a public or private railroad, or by a municipal or other governmental agency.
- (78) **Recreational vehicle/equipment.** Recreational vehicle/equipment includes snowmobiles, floats, rafts, boats and boat trailers, including normal equipment to transport the same, recreational equipment as determined by the Zoning Administrator and also includes any of the following recreational vehicles as each is hereinafter defined:
- A. **Travel Trailer.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses.
- B. **Pick-up Camper.** A structure designed primarily to be mounted on a pick-up truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.
- C. **Motor Home.** A portable dwelling designed and constructed as a integral part of a self-propelled vehicle.
- D. **Folding Tent Trailer.** A canvas folding structure mounted on wheels and designed for travel and vacation use.
- (79) **Religious assembly.** See Place of Worship.
- (80) **Right-of-way.** A strip of land or the air space above it taken, dedicated, or otherwise recorded as an irrevocable right-of-passage for use as a public way. In addition to the ROADWAY, it normally incorporates the curbs, tree lawns, lawn strips, sidewalks, water and sewer lines, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, LANDSCAPED AREAS, viaducts, and bridges and the air space above the surface.
- (81) **Right-of-way line.** The line between a LOT, tract, or parcel of land and a contiguous PUBLIC STREET, and demarcating the public RIGHT-OF-WAY. "Right-of-way line" also means "street line."

- (82) **Roadway.** The pavement measured between curbs, that portion of a RIGHT-OF-WAY available for vehicular travel, including parking lanes.
- (83) **Setback.** The required minimum horizontal distance between a LOT LINE and the nearest portion of a BUILDING, pavement, parking areas, wetland, waterway or STRUCTURE as established by this Zoning Code.
- (84) **Setback Line.** A line established by this Zoning Code generally parallel with and measured from the LOT LINE, defining the minimum distance a BUILDING, STRUCTURE, parking area, pavement or other area shall be located from the said LOT or thoroughfare/RIGHT-OF-WAY LINE, except as may be provided in this Zoning Code.
- (85) **Sign.** Any visual communication display, object, device, graphic, structure or part, situated indoors or outdoors, or attached to, painted on, or displayed from a BUILDING or STRUCTURE in order to direct or attract attention to, or announce or promote, an object, product, place, activity, person, ideology, institution, organization, business or the like, by means of letters, words, models, banners, flags, pennants, insignia, devices, designs, colors, symbols, fixtures, images, illuminations or representations used as, or which is in the nature of, an announcement, direction, advertisement or other message.
- (86) **Single housekeeping unit.** Single housekeeping unit means common use and access to all living and eating areas, bathrooms, and food preparation and serving areas.
- (87) **Stable.** Any BUILDING located on a land area on which a residence is located, designed, arranged, used or intended to be used for housing horses for the private use, benefit or pleasure of the occupants of the residence.
- (88) **Street, private.** An area set aside to provide access for vehicular traffic within a DEVELOPMENT that is not dedicated or intended to be dedicated to the Village and that is not maintained by the Village.
- (89) **Street, public.** See sub-section 1105.01 (b).
- (90) **Structure.** Anything that is constructed on or under the ground or attached or connected to the ground, included but not limited to: BUILDINGS, barriers, bridges, bulkheads, bunkers, chimneys, FENCES, garages, outdoor seating facilities, patios, platforms, decks, pools, poles, tanks, tents, towers, sheds, SIGNS and walls; excluding trailers and other vehicles whether on wheels or other supports.
- (91) **Structural alteration.** Any change or rearrangement in the supporting members of a BUILDING, such as beams, girders, bearing walls, columns or partitions or any increase in the area or cubical contents of the BUILDING.
- (92) **Subdivision.** See subsection 1105.01 (a).

- (93) **Tree line.** The edge of a wooded area with a continuous edge of canopy cover (e.g., drip line), as existing and shown in an aerial photograph taken March 8, 1987, which photograph is on file in the office of the Clerk-Treasurer in the Waite Hill Village Hall. Such tree line shall be reviewed, and if determined by them to be necessary, updated and redetermined, by the Village Planning and Zoning Commission on or before January 1, 1992, and each five years thereafter.
- (94) **Use.** The purpose for which land, a BUILDING or STRUCTURE is arranged, designed, intended, maintained or occupied; or any occupation, activity, or operation carried on in a BUILDING or STRUCTURE or on land.
- A. **Use, accessory.** A use located on the same lot with the principal use of BUILDING or land, but incidental and subordinate to and constructed subsequent to the PRINCIPAL USE of the BUILDING or land.
- B. **Use, permitted.** A use that is authorized by this Zoning Code as either a use permitted by right or an accessory use.
- C. **Use permitted by right.** A permitted use that is approved administratively when it complies with the standards and requirements set forth in the Zoning Code, the approval of which does not require a public hearing.
- D. **Use, principal.** The primary or main use or activity of a BUILDING or LOT.
- E. **Use, temporary.** A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent Structure.
- (95) **Variance.** A grant by the Board of Zoning Appeals to a property owner authorizing the property owner to vary from the literal terms of the relevant regulations.
- (96) **Way, drainage.** The land required for construction or maintenance of storm water sewers, or the land comprising a drainage ditch, natural stream or watercourse.
- (97) **Yard.** An open space on the same LOT with a PRINCIPAL BUILDING or STRUCTURE extending between the LOT LINE and the extreme front, rear or side wall of the PRINCIPAL BUILDING or STRUCTURE.
- A. **Yard, corner side.** On a CORNER LOT, the yard between the PRINCIPAL BUILDING and the SIDE LOT LINE adjacent to the street and extending from the FRONT YARD to the REAR LOT LINE.

- B. **Yard, front.** The area across the full width of the LOT between the front of the PRINCIPAL BUILDING and the front line of the LOT.
  - C. **Yard, rear.** The area across the full width of the LOT between the rear of the PRINCIPAL BUILDING and the rear line of the LOT.
  - D. **Yard, side.** The area between the PRINCIPAL BUILDING and the side line of the LOT extending from the front wall to the rear wall of the PRINCIPAL BUILDING.
- (98) **Zoning Certificate.** A document issued by the Zoning Administrator authorizing the construction or alteration of a BUILDING or STRUCTURE and/or USE of a LOT or STRUCTURE in accordance with this Zoning Code.
- (99) **Zoning Map.** An accurate map, or maps, depicting the Village of Waite Hill, Ohio, and indicating the boundaries of the zoning districts established by this Zoning Code. The Zoning Map, or maps, shall include the current Ecologically Sensitive Areas Map, the current Building Zone Map, and any other maps indicating the Village's development policies. The Zoning Map, or maps, may also be known as the Official Zoning Map.

**CHAPTER 1123  
Enforcement and Penalties**

1123.01	Enforcement by Administrator.	1123.09	Complaints Regarding Violations.
1123.03	Construction and Use as Approved.	1123.11	Inspection of Property.
1123.05	Violations.	1123.13	Stop Work Order.
1123.07	Violation Considered a Nuisance.	1123.15	Notice of Violation.
		1123.17	Certificate Revocation.
		1123.19	Penalties.

**SECTION 1123.01 ENFORCEMENT BY ZONING ADMINISTRATOR.**

The provisions of this Zoning Code shall be administered and enforced by the Zoning Administrator or such other officers vested by the Mayor with the duty and authority of enforcing ordinances of the Village.

**SECTION 1123.03 CONSTRUCTION AND USE AS APPROVED.**

Zoning certificates issued by the Zoning Administrator on the basis of approved plans and applications authorize only the use and arrangement set forth in such approved plans and applications, or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this Code.

**SECTION 1123.05 VIOLATIONS.**

It shall be unlawful to:

- (a) Use or occupy any land or place; build, erect, alter, remodel, restore, or rebuild thereon any building or structure; permit any building or structure to remain on such land; or use, occupy, or operate such building or structure, in any way or for any use or purpose which is not permitted by the provisions of this Zoning Code; or
- (b) Use or occupy any parcel of land; use or occupy a new building; or enlarge, substitute, or otherwise change the use, occupancy, or configuration of any land or building, without having received a zoning certificate or certificate of zoning compliance, as applicable, indicating compliance with the provisions of this Zoning Code from the Zoning Administrator; or
- (c) Aid, assist, or participate with any person in placing, building, erecting, altering, remodeling, restoring, or rebuilding any building or structure which is not permitted by the provisions of this Zoning Code; or
- (d) Violate or fail to perform any condition, stipulation or safeguard set forth in any certificate or approval issued pursuant to this Zoning Code, or continue to use or occupy the premises or building as previously authorized by such certificate or approval beyond the duration limit therein stated; or

- (e) Continue construction, renovation, or improvements contrary to a Stop Work Order or Notice of Violation, unless permitted to continue by the Zoning Administrator when necessary to protect property or the health, safety, and welfare of the Village. Decisions of the Zoning Administrator may be appealed to the Mayor; or
- (f) Refuse to permit the Zoning Administrator to enter any premises in the Village to investigate a reported violation of the provisions of this Zoning Code; or
- (g) Knowingly make any materially false statement of fact in an application to the Zoning Administrator for site plan approval, a zoning certificate, or certificate of zoning compliance, or in the plans or specifications submitted to the Zoning Administrator in relation to such application.

**SECTION 1123.07 VIOLATION CONSIDERED A NUISANCE.**

Any building erected, altered, moved, razed or converted, or any use of land or premises carried on in violation of any provision of this Zoning Code may be declared to be a nuisance. Any building or land use activity considered to be a possible violation of any provision of this Zoning Code that is observed by any Village official shall be reported to the Zoning Administrator.

**SECTION 1123.09 COMPLAINTS REGARDING VIOLATIONS.**

Whenever a violation of this Zoning Code occurs, or is alleged to have occurred, any person may file a complaint. Such written complaints shall fully state the causes and basis of the complaint and shall be filed with the Zoning Administrator.

**SECTION 1123.11 INSPECTION OF PROPERTY.**

The Zoning Administrator shall inspect any building erected, altered, moved, razed or converted, or any use of land or premises carried on in alleged violation of any of the provisions of this Zoning Code including any alleged failure to comply with any conditions placed upon an application at the time of approval.

**SECTION 1123.13 STOP WORK ORDER.**

Subsequent to a determination that construction work is being done contrary to this Zoning Code, or if the work being performed is causing any situation that threatens the health, safety or welfare of the surrounding property owners, their respective properties, or of the general public passing through or near the construction area, the Zoning Administrator shall issue a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Zoning Administrator, shall constitute a punishable violation of this Zoning Code.

**SECTION 1123.15 NOTICE OF VIOLATION.**

Upon finding a violation, the Zoning Administrator shall order, in writing, the owner, agent, occupant or operator of such building or premises to correct, within a stated reasonable time, all conditions that are found to be in violation of this Zoning Code. After such a notice is served, no work, except to correct the violation or comply with the notice, shall proceed on any building or premises included in the violation.

Such notice of violation shall be by either personal delivery to the person or persons responsible, or by certified mail, addressed to the person or persons responsible at the last known address.

**SECTION 1123.17 CERTIFICATE REVOCATION.**

The Zoning Administrator may issue a revocation notice to revoke a certificate or approval that was issued contrary to this Zoning Code or based upon false information or misrepresentation in the application. The certificate or approval shall be revoked by notice, in writing, to be personally delivered to the holder of the void certificate or approval upon the premises concerned or by certified mail to the last known address of such holder. Any person who proceeds thereafter with such work or use without having obtained a new certificate or approval in accordance with this Zoning Code shall be deemed guilty of violation thereof.

**SECTION 1123.19 PENALTIES.**

Whoever violates any section or provision of this Zoning Code upon conviction thereof shall be deemed guilty of a misdemeanor of the fourth degree, upon conviction for a first offense, and shall be deemed guilty of a misdemeanor of the third degree upon conviction of a second or any subsequent offense. Each day of the existence of any violation shall be a separate offense.

**CHAPTER 1125**  
**Zoning Certificates and Certificates of Zoning Compliance**

1125.01	Intent.	1125.05	Certificate of Zoning Compliance
1125.03	Zoning Certificate Required.		Required.

**SECTION 1125.01 INTENT.**

The administrative provisions of this Chapter establish the procedures for reviewing and acting upon applications for zoning certificates, including certificates of zoning compliance, in order to accomplish the purposes for which this Zoning Code is adopted.

**SECTION 1125.03 ZONING CERTIFICATE REQUIRED.**

No excavation, grading, or improvement shall be commenced, except as provided for in Chapter 1335, and no building or structure shall be erected, constructed, enlarged, structurally altered, or moved in whole or in part, and no use of buildings or land shall be established or changed in the Village of Waite Hill prior to the issuance of a zoning certificate. A zoning certificate shall be issued by the Zoning Administrator only when the plans for the proposed use, building, or structure fully comply with the regulations set forth in this Zoning Code.

- (a) A zoning certificate shall be issued under the following circumstances:
- (1) One-Family Detached and Uses Accessory Thereto. An application for a one-family detached dwelling or use accessory thereto has been reviewed and approved according to the procedures in Chapter 1127, Site Plan Review Procedures.
  - (2) All Other Permitted Uses. An application for any other permitted use not described in sub-section (a)(1) above, has been reviewed and approved according to the site plan review procedures set forth in Chapter 1127.
  - (3) Variance Requests. All applicable applications have been reviewed and approved according to the provisions of this Code, and a variance from a requirement of this Zoning Code has been reviewed and approved by the Board of Zoning Appeals, according to the procedures set forth in Chapter 1133.
  - (4) Similar Uses. An application for any use not specifically listed in this Zoning Code as a permitted use has been reviewed and approved by the Planning and Zoning Commission according to the procedures set in Chapter 1153, General Use Regulations.



- (b) Applications for zoning certificates are available in the Office of the Zoning Administrator. A completed application form accompanied by all other applicable submission requirements shall be submitted to the Zoning Administrator.
- (c) Expiration of Zoning Certificate. All zoning certificates shall expire if work there under is not in compliance with the following:
- (1) If no work under the zoning certificate is commenced within one (1) year after the issuance of the certificate (e.g., ground shall have been broken).
  - (2) If, after work has been commenced, all work to be performed under the permit is not completed within twenty-four (24) months after issuance of the certificate.
  - (3) A person may obtain a one-time six-month extension of an unexpired permit upon a showing, satisfactory to the Planning and Zoning Commission, that work on the project will be completed within the extension period. No fee will be charged by the Village for this extension.
  - (4) A certificate which has been expired for a period of six (6) months or less may be renewed for a period to be determined by the Planning and Zoning Commission, upon a showing, satisfactory to the Planning and Zoning Commission, that work on the project will be completed within the extension period, provided no changes have been made in the original plans and specifications for such work. The renewal fee shall be one half the amount required for a new certificate. Certificates which have been expired for greater than six (6) months shall require a new application and payment of the full certificate fee.
- (d) No zoning certificate for excavation, construction, or reconstruction shall be issued unless the plans, specifications, and the intended use or occupancy conform to the provisions of this Zoning Code.
- (e) Foundation and Footer Inspections. Footers and foundations of any deck or structure, including additions, outbuildings and new dwelling units shall be inspected by the Zoning Administrator. These foundations or footers are inspected when the forms have been built and the footers or foundations have been poured. It shall be the responsibility of the property owner to call to obtain such inspection.
- The Planning and Zoning Commission may order an additional inspection when the forms have been built but before the footers or foundations have been poured.
- (f) Seeking a Building Permit from Lake County. An applicant shall not seek a building permit from Lake County until the County has received a valid, Zoning Certificate from the Village of Waite Hill.

No land, new building, or structure shall be occupied or used, in whole or in part, and no change in the use of an existing building or structure, or any part thereof, shall be permitted, until a Certificate of Zoning Compliance has been applied for and issued by the Zoning Administrator. A Certificate of Zoning Compliance shall also be required prior to the use or occupancy of any building or land, if Section 1125.03, Zoning Certificate Required, requires said land or building to receive a Zoning Certificate.

- (a) Certificate of Zoning Compliance shall be applied for and issued as follows:
- (1) Occupancy of a Building. A Certificate of Zoning Compliance shall be required before a building that has been constructed, or an existing building that has been altered, moved, changed in use, changed in tenancy, or changed as to off-street parking requirements may be occupied. A Certificate of Zoning Compliance shall only be issued after the completion of the erection or alteration, or change in use of the building and the building is found, upon inspection by the Zoning Administrator, to conform with the provisions of this Zoning Code and any other applicable Village regulations, policies, and specifications.
  - (2) Occupancy of Land. A Certificate of Zoning Compliance shall be required before occupancy of the land or where use of the land has been changed to a use different from the prior use, except for agricultural uses. A Certificate of Zoning Compliance shall be issued when it is determined, upon inspection, that the use conforms with the provisions of this Zoning Code.
  - (3) Change in Use of Non-conforming Building or Use. A Certificate of Zoning Compliance shall be required whenever a nonconforming building, structure, or land is changed to another nonconforming use, and shall not be issued until the Board of Zoning Appeals has approved the change in accordance with the provisions of Chapter 1135, Nonconforming Uses, Lots, and Structures.
- (b) An application for Certificate of Zoning Compliance shall include, in addition to the plans required for the Zoning Certificate, accurate information as to the size, location, drawings and description of the lot, the dimensions of yards and setbacks, and the use of land.
- (c) The use and/or development of a building or land shall be inspected by the Zoning Administrator upon application for a Certificate of Zoning Compliance, by the owner or his agent, to determine whether such use conforms to all provisions of this Zoning Code and the approved final site plan as applicable, or if it is a lawfully existing nonconforming use.
- (d) Action by Zoning Administrator. The Zoning Administrator shall evaluate the application and approve or deny it within fifteen (15) days from the date the completed application was submitted. In evaluating the application, the Zoning Administrator may consult with any department, agency, public body, official,

company, or individual necessary to determine whether the application complies with the regulations of this Zoning Code. Following the Zoning Administrator's review, the Zoning Administrator shall:

- (1) Approve. The Zoning Administrator shall issue a Certificate of Zoning Compliance upon finding that the building, structure or use, as proposed, complies with the provisions of this Zoning Code, if the maintenance and performance guarantees have been provided, as applicable.
  - (2) Denial. If it is determined by the Zoning Administrator that the proposed building, structure or use would violate one or more provisions of this Zoning Code, then the Certificate of Zoning Compliance shall not be issued. Upon disapproval of any application, the Zoning Administrator shall notify the applicant in writing of the reasons for disapproval.
  - (3) Temporary Certificate of Zoning Compliance. Pending the issuance of a permanent Certificate of Zoning Compliance, a temporary certificate may be issued, to be valid for a period not to exceed (6) six months from its date, pending the completion of any required improvements, provided a performance guarantee or bond has been provided to the Village from a banking institution of sufficient amount to cover the estimated cost of materials and labor and in a form acceptable to the Law Director.
- (e) Certification. The Certificate of Zoning Compliance shall document that the building or proposed use of land or building conforms to the provisions of this Zoning Code. The applicant shall not seek a building occupancy permit from Lake County until the County has received a valid Certificate of Occupancy from the Village of Waite Hill.
- (f) Records. A record of all applications and certificates issued shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished, upon request, to any person requesting such records.

**CHAPTER 1127  
Site Plan Review Procedures**

1127.01	Intent.	1127.21	Criteria for Reviewing Final Site Plans by the Planning & Zoning Commission.
1127.03	Site Plan Review Required.		
1127.05	Site Plan Process.		
1127.07	Pre-application Meeting Encouraged.	1127.23	Criteria for Review by the Architectural Board of Review.
1127.09	Site Plan Review Procedures.		
1127.11	Approval by Architectural Board Of Review Required.	1127.25	Request for Additional Information.
		1127.27	Simultaneous Plat Approval.
1127.13	Action by Planning and Zoning Commission.	1127.29	Significance of an Approved Plan; Plan Revisions.
1127.15	Minor Alterations Approved by Chair Of the Planning & Zoning Commission.	1127.31	Expiration of Site Plan Approval.
		1127.33	Equivalency Provision.
		1127.35	Appeals of Decisions.
1127.17	Plan Submission Requirements.	1127.37	Approval of Site Plan Requiring Variances.
1127.19	Criteria for Reviewing Preliminary Site Plans by the Planning & Zoning Commission.		

**SECTION 1127.01 INTENT.**

The purpose of this Chapter is to provide adequate review by the Planning and Zoning Commission and the Architectural Board of Review of proposed developments in those zoning districts where the uses permitted are of such a nature that review of specific plans is deemed necessary to protect the valued characteristics of the Village including its large lots, scenic views, and rural character as well as the public health, safety, and general welfare of the community.

**SECTION 1127.03 SITE PLAN REVIEW REQUIRED.**

Review of a preliminary site plan and a final site plan shall be conducted in compliance with the following:

- (a) Site Plan Review Required. A site plan that indicates, among other things, the exact location of buildings, landscaping, parking areas, access drives, signs, and outdoor storage areas shall be required for the following:
  - (1) Conservation Developments and Building Zone Developments;
  - (2) New construction of all permitted uses in the Open Space Natural Area Preservation District;
  - (3) New construction of all permitted uses in the Single-Family Residence Districts;

- (4) Any existing or previously approved development meeting the criteria of sub-sections (1) through (3) above that proposes to alter, reconstruct, or otherwise modify a use or site including expanding the floor area of the permitted use; and,
  - (5) New construction or alteration of fences as provided for in Chapter 1141, Single-Family Residence District Regulations.
- (b) Exceptions. A change of occupancy in an existing structure, or on a previously approved final site plan, when there is no change in the bulk of the structure, and no change in the parking required, shall be exempt from the site plan review procedures.

#### **SECTION 1127.05 SITE PLAN PROCESS.**

Site plan reviews should proceed and generally move in phases to include:

- (a) Pre-application meeting with the Planning and Zoning Commission;
- (b) Preliminary site plan reviewed by the Planning and Zoning Commission. Preliminary site plans may be jointly reviewed by the Planning and Zoning Commission and the Architectural Board of Review pursuant to Section 1127.11;
- (c) If not reviewed jointly, preliminary site plan reviewed by the Architectural Board of Review;
- (d) Final site plan reviewed by the Architectural Board of Review. Final site plans may be jointly reviewed by the Planning and Zoning Commission and the Architectural Board of Review pursuant to Section 1127.11;
- (e) If not reviewed jointly, final site plan reviewed by the Planning and Zoning Commission.

If an application requires a variance, see Section 1127.37.

#### **SECTION 1127.07 PRE-APPLICATION MEETING ENCOURAGED.**

The applicant is encouraged to meet with the Planning and Zoning Commission prior to submitting an application for preliminary site plan review. The purpose of this meeting is to discuss early and informally with the applicant the purpose and effect of this Zoning Code and the criteria and standards contained within. However, no action shall be taken at such a meeting and no opinions, suggestions, or recommendations discussed shall be relied on by the applicant to indicate subsequent approval or disapproval of the site plan.

#### **SECTION 1127.09 SITE PLAN REVIEW PROCEDURES.**

Site plans, including preliminary and final, shall be reviewed and distributed according to the following procedures:

- (a) Review for Completeness. Within ten (10) days after receiving an application, the Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made and place it on the applicable board or commission agenda or declare the application a Minor Alteration, as permitted by Section 1127.15, if applicable.
- (b) Distribution of Plans. When the Zoning Administrator determines that the application for preliminary or final site plans are complete, the Zoning Administrator shall forward the application to the appropriate Village departments and professional consultants for review and comment. Any reports, comments, or expert opinions shall be returned to the Zoning Administrator within ten (10) days from the date the application is deemed complete.
- (c) Transmission to the Applicable Board or Commission. For preliminary and final site plan reviews, the Zoning Administrator shall distribute the application for site plan review and any reports prepared by the individuals in sub-section (b) above to the applicable board or commission, at least four (4) days prior to the time of the next regularly scheduled meeting.

SECTION 1127.11 APPROVAL BY ARCHITECTURAL BOARD OF REVIEW  
**REQUIRED.**

- (a) No application for a final site plan shall be approved by the Planning and Zoning Commission unless the preliminary and final site plans have been approved by the Architectural Board of Review, except as provided for in this Zoning Code.
- (b) The Planning and Zoning Commission and the Architectural Board of Review may jointly review and act upon preliminary and final site plans. When doing so, the applicable review criteria and standards contained in this Chapter shall be utilized and action shall be taken pursuant to Section 1127.13. However, any one member of these boards may request that each board act separately as provided for in this Chapter.
- (c) If the Architectural Board of Review votes separately when reviewing preliminary and final site plans, the Architectural Board of Review shall review the site plan to determine if such application complies with the review criteria and standards set forth in this Chapter and in the applicable Chapters of this Zoning Code. The Architectural Board of Review shall take one of the following actions:
  - (1) The Architectural Board of Review shall approve the site plan if the proposed plan is determined to be appropriate and in conformance with the review criteria and standards outlined in this Zoning Code;

- (2) The Architectural Board of Review may approve the site plan subject to specific conditions not included on the plan as submitted, to ensure that the development conforms to the intent and purposes of this Zoning Code;
  - (3) The Architectural Board of Review shall deny the application if the plan is not found to comply with the specifications of this Zoning Code. The Architectural Board of Review shall indicate in its minutes the reasons for its action.
- (d) **Failure of the Architectural Board of Review to Act.** Failure of the Architectural Board of Review to act within sixty (60) days from the date the application was deemed complete, or an extended period as may be agreed upon, the applicant may deem the application denied.

### SECTION 1127.13 ACTION BY PLANNING AND ZONING COMMISSION.

- (a) The Planning and Zoning Commission shall review the site plan according to the criteria in Sections 1127.19 and 1127.21, as applicable.
- (b) Following its review, for a preliminary or final site plan, the Planning and Zoning Commission shall:
  - (1) Approve the site plan as submitted; or
  - (2) Approve the site plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements in the setback layout, open space arrangement, on-site control of access to streets, or such features as fences, walls and plantings to further protect and improve the proposed and surrounding developments; or
  - (3) Deny the site plan when the application does not demonstrate that the required standards have been met.
- (c) For a preliminary or final site plan, the Planning and Zoning Commission may also postpone the site plan for the next scheduled Planning and Zoning Commission meeting, demonstrating to the applicant an acceptable alternative plan.
- (d) The Village shall promptly furnish the applicant with its written report on the preliminary site plan or its decision on the final site plan.
- (e) **Failure of the Planning and Zoning Commission to Act.** Failure of the Planning and Zoning Commission to act within sixty (60) days from the date the application was deemed complete, or an extended period as may be agreed upon, the applicant may deem the application denied.
- (f) **Re-application after Denial.** The Zoning Administrator shall accept no re-application for a site plan unless the re-application is based on a revised application that

addresses the reasons for the denial of the initial application. A re-application shall comply with all the requirements of this Chapter, including payment of the required fee. If an application is denied as a result of sub-section 1127.13 (e), Failure of the Planning and Zoning Commission to Act, the Zoning Administrator shall accept a re-application for site plan review that has not been revised from the previous submittal.

- (g) Issuance of Zoning Certificate. If the final site plan is approved or approved with conditions, the Zoning Administrator shall issue a Zoning Certificate pursuant to Chapter 1125, Zoning Certificates and Certificates of Zoning Compliance. However, the Zoning Certificate shall not be issued until:
- (1) At the Zoning Administrator's discretion, there shall be executed by the owner or applicant an agreement to construct required physical improvements located within the public rights-of-way or easements or connected to any public facility; and the applicant shall execute and deliver to the Village a security approved by the Village Engineer in the amount of the estimated cost of the required physical improvements as determined by the Village Engineer. The agreement and the security shall provide for completion of all work within a time specified to be determined by the Village Engineer or before occupancy is allowed in any structure, whichever shall occur first.
  - (2) The approval of the final site plan or the installation of improvements as required by this Zoning Code shall not obligate the Village to accept improvements for maintenance, repair or operation. Acceptance shall be subject to local or state regulations where applicable, concerning the acceptance of each type of improvement.
  - (3) Before a Certificate of Zoning Compliance may be issued, the supervising architect and/or engineer shall provide to the Zoning Administrator a certificate that all phases of the facility or structure have been constructed in conformance with approved plans, documentation, and specifications.

#### **SECTION 1127.15 MINOR ALTERATIONS APPROVED BY CHAIR OF THE PLANNING & ZONING COMMISSION.**

When a minor alteration is proposed to an existing building, structure or site arrangement on a zoning lot otherwise subject to site plan review pursuant to Section 1127.03, the Chair of the Planning and Zoning Commission may approve the application as specified in this Section.

- (a) For the purposes of this Section, a minor alteration shall include:
- (1) Small, incidental alterations of existing off-street surface parking lots or areas;
  - (2) Small, incidental construction of accessory structures;



- (3) Incidental additions or alterations to principal buildings on large zoning lots; and,
  - (4) Minor design modifications that will have no discernible impact on neighboring properties, the public, or those intended to occupy or use the proposed development.
- (b) The Chair of the Planning and Zoning Commission shall review the proposal to determine that the proposal is not contrary to and complies with all applicable regulations in this Zoning Code and will not result in any material adverse impact to the site or surrounding areas.
- (c) After reviewing the application, the Chair of the Planning and Zoning Commission shall:
- (1) Approve the site plan as submitted; or,
  - (2) Deny the site plan when the application does not demonstrate that the required standards have been met.

#### **SECTION 1127.17 PLAN SUBMISSION REQUIREMENTS.**

- (a) The preliminary site plan, except for individually developed one-family detached dwelling which shall comply with the requirements in sub-section 1127.17 (c), shall disclose all uses proposed for the development, their location and arrangement, and shall include:
- (1) A plat and topography map, at two-foot intervals, of the proposed development area, which will also show all structures, trees and landscape features existing thereon and will include a certificate, by a registered engineer, of the gross area of development area stated in acres and square feet.
  - (2) A preliminary site plan, designed in accordance with the planning standards, regulations and criteria established in this Zoning Code, which will disclose:
    - A. The proposed location and design of public and private streets, including the location of existing utilities to be maintained or changed and utilities to be installed;
    - B. The proposed location of all structures and parking areas, identified by type, size, height, use, general design, square footage, proposed exterior materials and color of such structure;
    - C. The proposed assignment, and use of private land and shared facilities;
    - D. All structures in the development area to be retained, with plans for their remodeling, all structures to be removed from the development area and

- all structures, lying outside of the boundaries of the development area, located within 300 feet thereof;
- E. Preliminary plans of improvements to be included in the development area and such other information as the landowner may submit to explain their purpose, appearance and type of construction;
  - F. Preliminary information indicating the concept(s) for the proposed architectural treatment, including the proposed grading plan and method of surface drainage;
  - G. A preliminary estimate of traffic volume to be generated by the development, and a plan indicating the location and character of proposed entrances and exits from the development area;
  - H. Plans for fire prevention and protection, including proposed locations of standpipes and hydrants, if required;
  - I. A proposed method and standards for the construction and maintenance of streets, open spaces, parking areas and shared facilities; provided however, that no subdivision of property within the development area shall be permitted until those shared facilities required for access to each proposed lot within the development area has been completed or the completion of such shared facilities has been properly secured;
  - J. Proposed forms of covenants running with the land, deed restrictions including those with respect to the use, maintenance, repair, replacement and insurance of any shared facilities, covenants, restrictions or easements proposed to be recorded and covenants proposed for maintenance;
  - K. A plan showing existing site conditions, including water courses, topography, natural features and tree cover; the location and configuration of any shared facilities;
  - L. Preliminary floor plans of proposed buildings and facilities and preliminary drawings showing the proposed landscape, buffering and screening plan; and,
  - M. Any adjustments or variance in the regulations, standards or criteria prescribed in this Zoning Code, and amendments thereto, and regulations of the Village which would be required in order to permit construction of the development.
- (3) The Zoning Administrator may waive any of the submittal requirements in this Section if, in his or her opinion, and based on recognized planning or engineering principles and in an effort to achieve the goals of this Chapter, they are unnecessary to determine compliance with appropriate codes and

ordinances. Such waiver shall not be construed to authorize the reduction or waiver of any standard, regulation, or required improvement.

- (4) The preliminary site plan, unless otherwise permitted by the Zoning Administrator, shall be prepared by professional persons qualified in the planning of land development, traffic engineering and building and landscape design. The architectural and engineering services required for the preparation of the preliminary plan shall be rendered by licensed professional persons.
- (b) The final site plan of the development area, except for individually developed one-family detached dwellings which shall comply with the requirements in sub-section **1127.17 (c)**, shall contain and be accompanied by the following, unless such requirements are waived pursuant to sub-section **1127.17 (a) (3)**:
- (1) The completed application form, along with the appropriate application fee;
  - (2) An accurate, legal description prepared or certified by a registered/licensed surveyor of the State of Ohio;
  - (3) A property location map showing existing property lines, easements, utilities, and street rights-of-way;
  - (4) Approval from the Lake County Health Department and/or the State of Ohio for on-site septic field(s) and well(s), if applicable;
  - (5) Proposed public and private street system, including detailed plans and specifications for all streets, sidewalks, storm and sanitary sewers, water mains, street illumination, existing and proposed vegetation and other important engineering considerations, in accordance with the Zoning Code, and other ordinances of the Village;
  - (6) Plat of the development area showing street rights-of-way, if applicable; and easements in accordance with the requirements of all of the ordinances of the Village, which shall be in form for recording;
  - (7) Plan of the area containing the accurate location of each existing structure to be retained, if any, and plans and specification for each proposed structure, relationship to street system including driveways, parking and loading areas, illumination facilities, methods of waste disposal, pedestrian walks, common land, open space, landscaping and finished grades, all of which shall comply with the standards of the Zoning Code and other ordinances of the Village;
  - (8) Location of proposed accessory structures including fences, walls, signs, and lighting, if applicable;

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- (9) Summary table showing total acres of the proposed development, the number of acres devoted to each type of land use including streets and open space;
  - (10) Dimensions, and spacing of all buildings, setbacks, parking areas, drives and walkways;
  - (11) Preliminary architectural plans for the proposed development or use showing exterior elevations and building floor plans, site construction materials, prepared and certified by a qualified Ohio design professional;
  - (12) Detailed landscape plan for lands within the development area, including:
    - A. The protection of all trees over six (6) inches in caliper (measured at the diameter-at-breast-height);
    - B. A plan showing existing site conditions including water courses, topography, natural features and tree cover, and the location and configuration of all shared facilities; and,
    - C. Proposed landscaping and screening plans indicating the description of the location and nature of existing and proposed vegetation in compliance with the Zoning Code, when applicable.
  - (13) Proposed forms of covenants running with the land, deed restrictions, including the use of shared facilities, covenants, restrictions or easements to be recorded and covenants, if any, for maintenance;
  - (14) The form of agreement between owners within the development providing for the enforcement of a plan for maintaining, repairing, replacing and insuring any shared facilities;
  - (15) Estimated project cost for all public improvements for the purpose of providing estimates needed performance guarantees;
  - (16) Phasing Schedule and land disposition program, if applicable; and,
  - (17) When the final site plan provides for partial development of the area for which a preliminary site plan has been approved, a proposed final site plan of the development area of the remainder of the area shall be submitted to permit evaluation of the development of the entire parcel.
- (c) A preliminary or final site plan application for a one-family detached dwelling or a use accessory thereto shall include the items set forth below, unless such requirements are waived pursuant to sub-section 1127.17 (a) (3), and shall be submitted to the Zoning Administrator:
- (1) The completed application form;

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- (2) One copy of a general vicinity map;
  - (3) A plot plan showing the following. Such plans shall be legibly drawn to scale and shall be based on an accurate survey.
    - A. Zoning District;
    - B. Property boundary lines and the exact dimensions and area of the lot to be built upon or utilized;
    - C. Right-of-way of adjacent streets;
    - D. Location, dimensions, height, and bulk of all structures to be erected or altered;
    - E. The existing and intended use(s) of all land, buildings, and structures;
    - F. Dimensions of yards, driveways, and parking areas;
    - G. Location and use of buildings and adjoining lots within 100 feet of all property lines;
    - H. Location and dimension of any easements and use of the easement;
    - I. Lot numbers of the concerned and abutting properties;
    - J. Each plan shall bear statements declaring that no part of the land involved in the application has been previously used to provide required setbacks or lot area for another structure;
    - K. Preliminary architectural plans for the proposed development or use showing exterior elevations and building floor plans, site construction materials, prepared and certified by a qualified Ohio design professional;
    - L. Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application; and,
    - M. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Zoning Code.

**SECTION 1127.19 CRITERIA FOR REVIEWING PRELIMINARY SITE PLANS BY THE PLANNING AND ZONING COMMISSION.**

- (a) When reviewing preliminary site plan applications for individually developed one-family detached dwellings or a use accessory thereto, the Planning and Zoning Commission shall take into consideration the comments and recommendation of staff and consultants and shall review the proposal to determine that the proposal is

not contrary to and complies with all applicable regulations in this Zoning Code and will not result in any material adverse impact to the site or surrounding areas.

- (b) When reviewing preliminary site plan applications for uses other than individually developed one-family detached dwellings, the Planning and Zoning Commission shall review a preliminary site plan to determine if such application complies with the review criteria set forth below. The Planning and Zoning Commission shall take into consideration the comments and recommendation of staff and consultants. In order to approve a preliminary site plan, the Planning and Zoning Commission shall determine that:
- (1) The plan is consistent with the goals, policies, and the Zoning Map of the Village;
  - (2) The appropriate use and value of property within and adjacent to the area will be safeguarded;
  - (3) The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property; and,
  - (4) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Zoning Code.

**SECTION 1127.21 CRITERIA FOR REVIEWING FINAL SITE PLANS BY THE PLANNING AND ZONING COMMISSION.**

- (a) When reviewing final site plan applications for individually developed one-family detached dwellings or a use accessory thereto, the Planning and Zoning Commission shall take into consideration the comments and recommendation of staff and consultants and shall review the proposal to determine that the proposal is not contrary to and complies with all applicable regulations in this Zoning Code and will not result in any material adverse impact to the site or surrounding areas.
- (b) In reviewing final site plans for uses other than individually developed one-family detached dwellings, the Planning and Zoning Commission shall review the site plan to determine if such application complies with the review criteria set forth below. The Planning and Zoning Commission shall take into consideration the comments and recommendation of staff and consultants when reviewing the application. In order to approve a final site plan, the Planning and Zoning Commission shall determine that:
- (1) The plan is consistent with any plan or goals for the orderly development of the Village and, when applicable, conforms in all respects to the approved or provisionally approved preliminary site plan and the regulations of this Zoning Code;

- (2) The appropriate use and value of property within and adjacent to the area will be safeguarded;
- (3) The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;
- (4) Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
- (5) The development will have adequate public service, parking; and open spaces, when applicable;
- (6) The development will preserve and be sensitive to the natural characteristics of the site, as shown on the Zoning Map, in a manner that complies with the applicable regulations set forth in this Zoning Code;
- (7) The development will provide adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas that is designed to minimize direct light, glare, and excessive glow, which unreasonably interferes with the use and enjoyment of adjacent property ;
- (8) Points of ingress/egress to the development shall be controlled and designed in such manner as to minimize conflicts with adjacent properties and developments;
- (9) Adequate provision is made for emergency vehicle access and circulation. Adequate provision is made for fire hydrants and fire fighting water supply;
- (10) The proposed signs, if applicable:
  - A. Are of an appropriate size, scale, and design in relationship with the principal building, site, and surroundings; and,
  - B. Adequately identify the use; and
  - C. Are located to maintain safe and orderly pedestrian and vehicular circulation.
- (11) The landscape plan will adequately buffer adjacent uses, where applicable.
- (12) Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses and drainage areas, and shall comply with the applicable regulations in this Zoning Code, and any other design criteria established by the Village or any other governmental entity which may have jurisdiction over such matters; and,

- (13) If the project is to be carried out in progressive stages, each phase shall be so planned that the foregoing criteria are complied with at the completion of each phase.

**SECTION 1127.23 CRITERIA FOR REVIEW BY THE ARCHITECTURAL BOARD OF REVIEW.**

- (a) In their review of the exterior of buildings and landscaping during preliminary and final site plan review, the Architectural Board of Review shall consider the following as well as the criteria in Section 7.34 of the Village's Charter:
  - (1) The overall exterior appearance of any proposed building or structure;
  - (2) The height, build, and scale of any proposed building or structure with respect to building or structures in the immediate area;
  - (3) The exterior materials, colors and textures of any proposed building or structure with respect to their compatibility with other buildings and structures within the immediate area;
  - (4) The arrangement and location of any proposed buildings, structures or uses on the site, as well as their relationship to other buildings and structures within the immediate area;
  - (5) The landscape plan will adequately:
    - A. Maintain existing trees to the extent possible;
    - B. Enhance the principal building and site; and,
    - C. Provide appropriate plant materials and spacing considering the ultimate mature size and shape of plants relative to the buildings, use, site, and the climate of the area.
  - (6) The exterior architectural character and functional plan of the structure(s) shall not be at such variance with existing structure(s) or structure(s) being built in the immediate neighborhood or zoning district or to cause substantial depreciation in the property values of such existing structure(s) or structure(s) being built; and,
  - (7) All other factors that affect the appearance of the site and the area.
- (b) The Architectural Board of Review shall not attempt to prescribe the style of architecture as long as the architectural style and design under consideration meet the standards and criteria set forth in this Zoning Code. The Architectural Board of Review shall endeavor to insure that the exterior appearance of all buildings, structures, or uses will:



- (1) Enhance the attractiveness and desirability of the area in keeping with its purpose and intent;
- (2) Encourage the orderly and harmonious development of the area in keeping with its character; and,
- (3) Enhance and protect the public and private investment and the value of all land and improvements within the area.

**SECTION 1127.25 REQUEST FOR ADDITIONAL INFORMATION.**

In their review of an application, the Architectural Board of Review, the Planning and Zoning Commission or the Zoning Administrator may request that the applicant supply additional information deemed necessary to adequately review and evaluate the proposed development.

**SECTION 1127.27 SIMULTANEOUS PLAT APPROVAL.**

If the proposed development includes the subdivision of land, the development shall be subject to the requirements of the plat approval process in accordance with Title **One** of Part **Eleven** of the Village's Codified Ordinances. Final site plan approval and subdivision plat approval may proceed simultaneously at the discretion of the Planning and Zoning Commission.

**SECTION 1127.29 SIGNIFICANCE OF AN APPROVED PLAN; PLAN REVISIONS.**

- (a) An approved final site plan shall become for the proposed development a binding commitment of the specific elements approved for development. The approved final site plan may be transferred to another person, corporation, or group of individuals or corporations prior to the issuance of a building permit. A request for such a transfer or change of ownership shall be presented to the Zoning Administrator and granted only if the new ownership entity satisfies the administrative, financial, legal and all other performance guarantees approved with the original, final site plan.
- (b) All construction and development under any building permit shall be in accordance with the approved, final site plan. Any departure from such plan shall be cause for revocation of the Zoning Certificate and/or Building Permit, and the property owner or other responsible parties are subject to penalties as prescribed by this Zoning Code.
- (c) Modification after Approval.
  - (1) Changes in an approved preliminary or final site plan shall be resubmitted for approval in accordance with this Chapter.
  - (2) Approval of a modification or amendment to a previously approved final site plan under the terms and provisions of this Chapter shall not extend or alter the one (1) year time limitation established by Section **1127.31**, which time

shall continue to be measured from the date of approval of the original final site plan

### **SECTION 1127.31 EXPIRATION OF SITE PLAN APPROVAL.**

An approved site plan shall remain valid for a period of twelve (12) months following the date of its approval, unless the Planning and Zoning Commission authorizes a longer period at the time of approval.

- (a) Preliminary Site plan. If, at the end of that time, a final site plan has not been submitted to the Zoning Administrator, then approval of the preliminary site plan shall expire and shall be of no effect unless resubmitted and re-approved in accordance with this Chapter.
- (b) Final Site plan. If, at the end of that time, construction of the development has not begun, then approval of such final site plan shall expire and shall be of no effect unless resubmitted and re-approved in accordance with the procedures set forth in this Chapter. Construction is deemed to have begun when all necessary excavation and piers or footings of one or more principal buildings included in the plan have been completed.

### **SECTION 1127.33 EQUIVALENCY PROVISION.**

In reviewing the application, the Planning and Zoning Commission may find that a final site plan either adheres or is equivalent to the requirements of this Zoning Code.

- (a) The Planning and Zoning Commission may consider elements of a final site plan to be equivalent to a requirement if:
  - (1) The proposed final site plan substantially complies with all specific requirements and with the purposes, intent and basic objectives of the zoning district;
  - (2) Through imaginative and skillful design in the arrangement of buildings, open space, streets, access drives and other features, as disclosed by the application, the proposal results in a development of equivalent or higher quality than that which could be achieved through strict application of such standards and requirements; and,
  - (3) The development, as proposed, shall have no adverse impact upon the surrounding properties or upon the health, safety or general welfare of the community.
- (b) It shall be the responsibility of the applicant to demonstrate to the Planning and Zoning Commission that the provisions of this Section have been satisfied. When evaluating the application with respect to this Section, the Planning and Zoning Commission shall make any finding of equivalency in writing which explains how and why the proposal has satisfied the above criteria. When making such a finding, the Planning and Zoning Commission may approve the proposed application,

including waivers from the numerical standards herein, as if the application were in strict compliance with the standards and requirements in this Zoning Code.

- (c) Approval under this Section is not a variance. Instead, this Section allows applicants to satisfy zoning requirements in ways not anticipated by the Village.

#### **SECTION 1127.35 APPEALS OF DECISIONS.**

- (a) **Architectural Board of Review.** Decisions by the Architectural Board of Review shall be heard in accordance with Section 7.36 of the Village's Charter.
- (b) **Planning and Zoning Commission.** Decisions by the Planning and Zoning Commission granting or denying approval of final site plans shall be final. Final administrative actions of the Planning and Zoning Commission may be subject to judicial review in accordance with Ohio Revised Code Chapter 2506.

#### **SECTION 1127.37 APPROVAL OF SITE PLAN REQUIRING VARIANCES.**

If the development application requires approval of both a site plan and a variance, the applicant shall first seek preliminary site plan approval.

If the Planning and Zoning Commission finds that any regulations, standards or criteria prescribed by the Zoning Code are inappropriate or inapplicable because of the unusual conditions of the proposed subject site or the character of the proposed development, and that an adjustment in such regulations, standard or criteria shall promote the public health, safety, property or general welfare and shall meet the criteria set forth in this Chapter, the Planning and Zoning Commission may recommend to the Board of Zoning Appeals that such adjustment be made.

**CHAPTER 1129**  
**Administrative Powers and Duties**

1129.01	Intent.	1129.09	Board of Zoning Appeals.
1129.03	Zoning Administrator.	1129.11	Village Council.
1129.05	Architectural Board of Review.		
1129.07	Planning and Zoning Commission.		

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**SECTION 1129.01 INTENT.**

This Chapter sets forth the powers and duties of the Zoning Administrator, Architectural Board of Review, Planning and Zoning Commission, Board of Zoning Appeals, and Village Council with respect to the administration of the provisions of this Zoning Code.

**SECTION 1129.03 ZONING ADMINISTRATOR.**

- (a) Establishment. The Zoning Administrator shall act as the administrative officer for the purpose of effecting the proper administration of the Zoning Code.
- (b) Powers and Duties. The Zoning Administrator or his/her designee shall have the following powers and duties:
- (1) Unless specifically qualified otherwise, the Zoning Administrator shall enforce the provisions of this Code. The Zoning Administrator shall have all necessary authority on behalf of the Village to administer and enforce the provisions of this Code;
  - (2) To interpret the meaning and application of this Zoning Code and its provisions;
  - (3) To issue zoning certificates as provided by this Zoning Code and keep a record of the same with a notation of any special conditions involved;
  - (4) To issue certificates of zoning compliance as provided by this Zoning Code and keep a record of the same;
  - (5) To accept, review for completeness, and respond to questions regarding applications upon which the Zoning Administrator is authorized by the provisions of this Zoning Code to review, including amendments to the Zoning Code, site plan review, variances, and appeals;
  - (6) To coordinate the Village's administrative review of applications required by this Zoning Code, including rezoning applications and site plan review;

- (7) To maintain any records required by this Zoning Code including inspection documents, and records of all variances, amendments, site plan applications, and similar use determinations;
- (8) To make such records available for the use of Council, the Planning and Zoning Commission, the Board of Zoning Appeals, the Architectural Board of Review, and the public;
- (9) To conduct or cause the inspection of buildings and uses of land to determine compliance with this Zoning Code;
- (10) To determine the existence of any violations of this Zoning Code and cause such notifications of violations or revocation notices, stop work orders to be issued, or initiate such other administrative or legal action as needed to address such violations;
- (11) To maintain in current status the “Official Zoning Map” of the Village of Waite Hill;
- (12) To provide such technical and consultation assistance as may be required by the Board of Zoning Appeals, the Planning and Zoning Commission, Architectural Board of Review, and other boards and commissions, in the exercise of their duties relating to this Code; and,
- (13) To perform such other functions as are referred or delegated by the Village Council or the Mayor.

**SECTION 1129.05****ARCHITECTURAL BOARD OF REVIEW.**

- (g) Establishment. The creation and composition of the Architectural Board of Review shall be as provided for in the Charter of the Village of Waite Hill.
- (h) Powers and Duties. For the purposes of this Zoning Code, the Architectural Board of Review shall have the following powers and duties in addition to those conferred by the Charter of the Village of Waite Hill:
  - (1) To review and act on all site plans as required by this Zoning Code;
  - (2) To perform such other functions as are referred or delegated to it by the Village Council or the Mayor; and,
  - (3) To hear and decide all other matters referred to and upon which it is required to pass by this Code.

**SECTION 1129.07****PLANNING AND ZONING COMMISSION.**

- (a) Establishment. The creation and composition of the Planning and Zoning Commission shall be as provided for in the Charter of the Village of Waite Hill.
- (b) Powers and Duties. For the purposes of this Zoning Code, the Planning and Zoning Commission shall have the following powers and duties in addition to those conferred by the Charter of the Village of Waite Hill:
  - (1) To review and act on all site plans as required by this Zoning Code;
  - (2) To make a determination that a proposed use not listed or provided for in this Zoning Code is substantially similar to a principal use that is listed and provided for in this Zoning Code;
  - (3) To review all current and proposed amendments to this Zoning Code and make recommendations to the Village Council as provided in this Zoning Code;
  - (4) To investigate and propose on its own initiative such amendments to the Zoning Code, as it may deem consistent with the purposes of this Zoning Code and which further the public health, safety, and general welfare of the Village of Waite Hill;
  - (5) To resolve any disputes with respect to the precise location of a zoning district boundary, using, where applicable, the standards and criteria of Chapter 1139, Establishment of Districts and Maps;
  - (6) To perform such other functions as are referred or delegated to it by the Village Council or the Mayor; and,
  - (7) To hear and decide all other matters referred to and upon which it is required to pass by this Code.

**SECTION 1129.09****BOARD OF ZONING APPEALS.**

- (a) Establishment. The creation and composition of the Board of Zoning Appeals shall be as provided for in the Charter of the Village of Waite Hill.
- (b) Powers and Duties. For the purposes of this Zoning Code, the Board of Zoning Appeals shall have the following powers and duties in addition to those conferred by the Charter of the Village of Waite Hill:
  - (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Zoning Administrator or another administrative official in the administration or enforcement of this Zoning Code, unless otherwise provided in this Zoning Code;

- (2) To authorize such variances from the terms of this Zoning Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Zoning Code will result in practical difficulty, and so that the spirit of the Zoning Code shall be observed and substantial justice done;
- (3) To perform such other functions as are referred or delegated to it by the Village Council or the Mayor; and,
- (4) To hear and decide on all matters referred to and upon which it is required to by this Zoning Code.

**SECTION 1129.11****VILLAGE COUNCIL.**

For the purposes of this Zoning Code, the Village Council shall have the following powers and duties:

- (a) To hold public hearings and vote upon proposed amendments to this Zoning Code, including text amendments and amendments to the Official Zoning Map;
- (b) To investigate and propose on its own initiative such amendments to the Zoning Code as it may deem consistent with the purposes of this Zoning Code and which further the public, health, safety, and general welfare of the Village of Waite Hill;
- (c) To act on Building Zone Developments according to the procedures, standards, and criteria stated in this Zoning Code; and,
- (d) To hear and decide all other matters referred to and upon which it is required to pass by this Code or the Village's Charter.

**CHAPTER 1131  
Amendments**

1131.01	Authority for Amendments.	1131.13	Amendments to Change Zoning Districts.
1131.03	Initiation of Zoning Amendments.	1131.15	Recommendation by the Planning & Zoning Commission.
1131.05	Amendments Initiated by Property Owners	1131.17	Public Hearing & Notice by the Village Council.
1131.07	Amendments Initiated by the Planning & Zoning Commission or the Village Council	1131.19	Action by the Village Council.
1131.09	Public Hearing & Notice by the Planning & Zoning Commission	1131.21	Annexation.
1131.11	Amendments to Text.		

**SECTION 1131.01 AUTHORITY FOR AMENDMENTS.**

The regulations imposed and the districts created under this Zoning Code may be amended from time to time by ordinance duly enacted by the Village Council. No such amendment shall be adopted except in accordance with the procedures specified in this Chapter of the Zoning Code.

**SECTION 1131.03 INITIATION OF ZONING AMENDMENTS.**

Amendments to this Zoning Code shall only be initiated in one of the following ways:

- (a) By the filing of an application by all owners or lessees of property or developers with an option or a signed purchase contract on such property within the area proposed to be changed or affected by said amendment. If the applicant is not the property owner, the property owner shall sign the application.
- (b) By the adoption of a motion by the Planning and Zoning Commission.
- (c) By the Mayor or a member of the Village Council.

**SECTION 1131.05 AMENDMENTS INITIATED BY PROPERTY OWNERS.**

An amendment initiated by all owners or lessees of property or a developer with an option or a signed purchase contract on such property within the area proposed to be changed or affected by said amendment shall be submitted and reviewed according to the following:

- (a) Discussion with Planning and Zoning Commission. Prior to submitting an application for an amendment to the Zoning Code, the applicant may appear before the Planning and Zoning Commission to informally discuss the proposed amendment. However, no action shall be taken at such a meeting and no discussions, opinions, suggestions, or recommendations of the Planning and Zoning Commission shall be relied upon by the applicant to indicate subsequent approval or disapproval of the proposed amendment.



- (b) Submission Requirements. An application for a zoning amendment may be obtained in Village Hall. The application for amendments to both the Zoning Code text and the Official Zoning Map shall be in such form and contain such information as shall be prescribed from time to time by the Zoning Administrator. The application shall also include the application fee and the information listed below:
- (1) The name, address and phone number of the applicant and the property owner if other than the applicant;
  - (2) A statement of the reason(s) for the proposed amendment;
  - (3) A statement on the ways in which the proposed amendment relates to the adopted plans and policies of the Village;
  - (4) Amendments to the Official Zoning Map adopted as part of this Zoning Code shall contain the following additional information:
    - A. Legal description of the parcel(s) to be rezoned, drawn by an Ohio registered/licensed surveyor;
    - B. Present use and zoning district;
    - C. Proposed use and zoning district;
    - D. A vicinity map at a scale approved by the Zoning Administrator showing property lines, thoroughfares, and such other items as the Zoning Administrator may require;
    - E. The names, addresses, and lot numbers of the owners of property within a radius of 1000 feet from the parcel or parcels of land proposed to be reclassified as well as a list of all owners of property directly across the street from the parcel or parcels to be rezoned; and,
    - F. Photographs of the subject property and adjacent properties.
- (c) Review for Completeness. The Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements within ten (10) days of receipt of such application. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the deficiencies and place the application on hold until complete. When the application is determined complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration.
- (d) Transmittal to the Planning and Zoning Commission. After the filing of a completed application by an owner, lessee of property or developer with an option or a signed purchase contract on such property, the Zoning Administrator shall transmit the application to the Planning and Zoning Commission to begin the adoption process specified in this Chapter.

**SECTION 1131.07 AMENDMENTS INITIATED BY THE PLANNING AND ZONING COMMISSION OR THE VILLAGE COUNCIL.**

After the formal introduction of an Ordinance by the Village Council, the proposed amendment shall be reviewed and considered by the Planning and Zoning Commission and the Village Council according to the process set forth in this Chapter.

**SECTION 1131.09 PUBLIC HEARING AND NOTICE BY PLANNING AND ZONING COMMISSION.**

- (a) Upon the receipt of an Ordinance from the Village Council, the Planning and Zoning Commission shall set a date for a public hearing for reviewing the proposed amendment.
- (b) Whenever a proposed map amendment proposes to rezone ten (10) or fewer parcels, written notification shall be given by the Zoning Administrator, by first class mail, to the applicant and to all owners of property located within ~~500~~ **1000** feet of the property proposed to be rezoned or redistricted as well as to the owners of property directly across the street from the parcel or parcels to be rezoned. Failure of delivery of such notice shall not invalidate any recommendation of the Planning and Zoning Commission or any subsequently enacted ordinance.
- (c) All notices shall be mailed at least fourteen (14) days prior to the date of the public hearing.
- (d) In all cases, notice of such hearing shall be given one (1) time in a newspaper of general circulation in the Village.
- (e) Notices shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that the opportunity to be heard will be afforded to any person interested.
- (f) The Commission may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.

**SECTION 1131.11 AMENDMENTS TO TEXT.**

When a proposed amendment would result in a change in the text of this Zoning Code but would not result in a change of zoning classification of any property on the Official Zoning Map, the Planning and Zoning Commission and the Village Council shall consider the following items when formulating its decisions:

- (a) Whether such change is consistent with the intent and purposes of this Zoning Code;
- (b) Which areas are most likely to be directly affected by such change and in what way they will be affected; and,

- (c) Whether the proposed amendment is made necessary because of changed or changing conditions in the areas of zoning districts affected or in the Village generally, and, if so, the nature of such changed or changing conditions.

**SECTION 1131.13                    AMENDMENTS TO CHANGE ZONING DISTRICTS OR ZONING CLASSIFICATIONS OF PROPERTIES.**

When a proposed amendment would result in a change of zoning classification of any property, the Planning and Zoning Commission and the Village Council should consider whether:

- (a) The change in classification would be consistent with the adopted plans and policies of the Village;
- (b) The change in classification would be consistent with the intent and purposes of this Zoning Code;
- (c) The proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions;
- (d) The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
- (e) The uses that would be permitted on the property if it were reclassified would have an adverse environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards;
- (f) Adequate utility, wastewater, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified; and,
- (g) The proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.

**SECTION 1131.15                    RECOMMENDATION BY THE PLANNING & ZONING COMMISSION.**

- (a) After the conclusion of the public hearing required in Section 1131.09, the Planning and Zoning Commission shall recommend, within ninety (90) days unless such time is extended by action of the Council, one of the following to Village Council, in writing, along with the minutes of the hearing:
  - (1) That the amendment be granted, as requested;
  - (2) That the amendment be granted, as modified by the Planning and Zoning Commission; or,
  - (3) That the amendment be denied.

- (b) If the Planning and Zoning Commission does not make a recommendation on the proposed amendment within forty-five (45) days after the public hearing, it shall be deemed that the recommendation of the Planning and Zoning Commission is that the amendment be denied.
- (c) All recommendations shall also be forwarded to the applicant, as applicable.

**SECTION 1131.17 PUBLIC HEARING AND NOTICE BY VILLAGE COUNCIL.**

**Upon receiving the report and recommendation of the Planning and Zoning Commission as to any proposed amendment to this Zoning Code or the Official Zoning Map, Council shall set a date for public hearing.**

- (1) Notice of the public hearing shall be given by Council according to the following:
  - (a) Notice of the public hearing shall be published with at least thirty (30) days' notice of the time and place of said public hearing to be advertised in a newspaper of general circulation in the Village.
  - (b) Whenever a proposed map amendment proposes to rezone ten (10) or fewer parcels, written notification shall be given by the Zoning Administrator, by first class mail, to the applicant and to all owners of property located within 1000 feet of the property proposed to be rezoned or redistricted as well as to the owners of property directly across the street from the parcel or parcels to be rezoned. The failure to deliver the notification, as provided in this sub-section shall not invalidate any such amendment, ordinance, measure or regulation.
  - (c) Notices shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that the opportunity to be heard will be afforded to any person interested.
- (2) Council may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.
- (3) During the thirty (30) days prior to the public hearing, the text of the proposed amendment, maps or plans, if applicable, and the recommendation of the Planning and Zoning Commission shall be on file for public examination in the office of the Zoning Administrator or in such other office as is designated by Council.

**SECTION 1131.19 ACTION BY VILLAGE COUNCIL.**

After the conclusion of the public hearing, Council shall take action on the proposed amendment.

- (a) Council's action shall:
  - (1) Adopt the recommendation of the Planning and Zoning Commission;
  - (2) Deny the recommendation of the Planning and Zoning Commission; or
  - (3) Adopt some modification thereof.
- (b) Required Vote for Adoption.
  - (1) When the Planning and Zoning Commission recommends approval of a proposed amendment, then no such amendment shall be adopted unless approved by a majority vote of the membership of Council.
  - (2) When the Planning and Zoning Commission recommends disapproval of a proposed amendment then no such amendment shall be adopted unless approved by a three-fourths vote of the membership of Council.
- (c) Any such proposal may be amended prior to the voting thereon by Council without further notice or postponement if such amendment to the proposal is germane to the subject matter thereof and is in accordance with the recommendation of the Planning and Zoning Commission.
- (d) If a proposed amendment is not adopted by the Village Council within 175 days after receiving the recommendation of the Planning and Zoning Commission is submitted, such proposed amendment shall be deemed to have been defeated and denied and shall not thereafter be passed without additional proceedings as provided for in this Chapter.
- (e) Any person or persons desiring an amendment of the Official Zoning Map or text of the Zoning Code whose application is denied by Village Council and fails to exhaust any other legal remedies that may be available to that person or persons, shall be barred from making application for the same amendment for the period of one (1) year, unless the application contains substantial changes in the use of the real property at issue and/or the scope of the proposed amendment.

#### **SECTION 1131.21 ANNEXATION.**

Upon any territory being annexed to this Village, the area so annexed shall become a part of the zone district established by this Zoning Code to which the annexed area is contiguous. The Planning and Zoning Commission shall, in case of doubt, determine the district to which such area shall become a part, until such time as Council by proper legislation incorporates such area into a district created hereby.

**CHAPTER 1133**  
**Appeals and Variances**

1133.01	Applications to the Board of Zoning Appeals.	1133.11	Review of Applications.
1133.03	Initiation of Application.	1133.13	Decision of the Board of Appeals.
1133.05	Determination of Jurisdiction & Hearing Procedure.	1133.15	Reapplication of Appeals & Variances.
1133.07	Notice of Public Hearing.	1133.17	Variances.
1133.09	Stay of Proceedings.	1133.19	Appeal of Board's Decision.

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**SECTION 1133.01 APPLICATIONS TO THE BOARD OF ZONING APPEALS.**

Any person, firm or corporation adversely affected by any decision or act or omission by the Zoning Administrator within ten (10) days of such decision may appeal to the Board of Zoning Appeals by filing with the Clerk-Treasurer, in his/her capacity as secretary to the Board of Zoning Appeals, a notice of appeal briefly stating the nature of the appeal, a copy or a recital of the substantive facts giving rise to the order, act or omission appealed from, including the date thereof. The Clerk-Treasurer shall notify the Zoning Administrator or other administrative officer within three (3) days from the filing of such appeal.

**SECTION 1133.03 INITIATION OF APPLICATION.**

All documents constituting the record upon which the application is based shall be transmitted to the Board of Appeals.

- (a) For the purposes of this Chapter, an applicant's request for a variance from the terms of this Zoning Code shall be considered as an appeal to the Board of Appeals, subject to the regulations set forth in this Chapter.
- (b) A request for an appeal or a variance or other matters for which the Board of Appeals has the power to authorize shall be submitted by the owner of the property involved or a person having an interest in such property and acting under written authority of the owner.

**SECTION 1133.05 DETERMINATION OF JURISDICTION & HEARING PROCEDURE.**

Upon filing of the notice and application of appeal with the Board of Zoning Appeals, the Board shall fix a time and place of hearing thereon. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required.

- (a) The appellant and the officer whose act or omission is the subject matter of appeal shall have the right to appear in person and with legal counsel as well as any person in interest may appear at the public hearing in person or by attorney.

- (b) The Board shall have the power to subpoena persons, records and other pertinent data, on its own motion or at the request of the appellant or the administrative officer.
- (c) In considering the appeal, competent evidence may be presented directly affecting the subject matter of appeal.

#### **SECTION 1133.07 NOTICE OF PUBLIC HEARING.**

Upon such application being filed with the Board of Zoning Appeals, the Board shall give notice of the time, place and purpose of the hearing thereon twenty (20) days prior to such hearing:

- (a) By publication one (1) time in a newspaper of general circulation in the Village; and
- (b) By mailing such notice by first-class mail to the property owner and to the owners of the property contiguous to and directly across the street from the property for which the variance or appeal is requested. Failure of delivery of such mail notice shall not invalidate the proceedings.

#### **SECTION 1133.09 STAY OF PROCEEDINGS.**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals after the notice of the appeal has been filed, that by reason of facts stated in the application, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken on due cause shown.

#### **SECTION 1133.11 REVIEW OF APPLICATIONS.**

The Board of Zoning Appeals shall review submitted applications. To aid in their review, the Board may transmit the application to appropriate administrative departments and professional consultants for review and comment. Any reports, comments or expert opinions shall be compiled by the Zoning Administrator and transmitted to the Board of Zoning Appeals prior to the time of the Board's review.

#### **SECTION 1133.13 DECISION OF THE BOARD OF APPEALS.**

Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part, the decision being appealed, and to that end shall have all the powers of the officers from whom the appeal is taken, and it may direct the issuance of a permit or certificate.

- (a) The Board of Zoning Appeals shall render a decision within thirty (30) days from the date of the hearing unless an extended period of time is mutually agreed upon by the applicant and the Board.
- (b) The Board shall notify the applicant in writing of the decision of the Board.
- (c) The Zoning Administrator shall keep minutes of all proceedings, showing the vote of each member thereon, and shall keep record of the Board's official actions.
- (d) The Board shall in each case make a finding of fact and order granting or denying the application, which shall be incorporated in its records. Any conditions to the

granting of such application shall also be incorporated in its records and made a part of any permit or certificate granted.

- (e) Once the applicant has received the Board's decision, he/she shall, within twelve (12) months following the date of approval submit an application for a zoning certificate or other action that complies with the Board of Zoning Appeals' decision
  - (1) A copy of the Board of Zoning Appeals' decision shall be attached to the application.
  - (2) If action is not taken by the appropriate party within the above-specified time frame, the authorization of the application shall become null and void, and reapplication to the Board shall be necessary.

#### **SECTION 1133.15 REAPPLICATION OF APPEALS AND VARIANCES.**

If the Board of Zoning Appeals denies the appeal and/or the variance, the Board need not rehear the application unless substantial new evidence is submitted as determined by the Zoning Administrator

#### **SECTION 1133.17 VARIANCES.**

The Board of Zoning Appeals may authorize upon appeal in specific cases a variance from the terms of this Zoning Code, based upon the standards set out in sub-section 1133.17(c), Review by the Board, as will not be contrary to the public interest according to the following procedures:

- (a) Application Requirements. An application for a variance shall be filed for review by the Board of Zoning Appeals upon the forms provided, and shall be accompanied by the submission requirements below:
  - (1) Name, address, and phone number of applicant(s);
  - (2) Proof of ownership, legal interest, or written authority;
  - (3) Legal description of property or portion thereof;
  - (4) Identification of the zoning district in which the property is located;
  - (5) Description or nature of variance requested;
  - (6) Narrative statements establishing and substantiating the justification for the variance pursuant to the criteria in sub-section 1133.17 (c); and,
  - (7) A plan, neatly and legibly drawn to adequately depict the information showing the following, where applicable:
    - A. The street providing access to the lot;
    - B. The lot/parcel identification of the subject site and the adjacent parcels;
    - C. The zoning of the subject site and adjacent parcels;



- D. The actual dimensions of the lot, the setbacks and other open space dimensions thereof and the location and size of any existing structures thereon;
  - E. The location and size of the proposed structure, and/or the proposed enlargement of existing structures;
  - F. The location and setback of the driveways;
  - G. An elevation drawing for any proposed new structures or additions; and,
  - H. Any other information, including but not limited to floor plans and other drawings at a reasonable scale to convey the need for the variance, which, in the judgment of the Zoning Administrator, may be necessary to provide for the enforcement of this Code.
- (8) Payment of the appropriate application fee;
  - (9) List of all owners of the property contiguous to and directly across the street from the property for which the variance is requested.
  - (10) Any other documents deemed necessary by the Zoning Administrator.
- (b) Review for Completeness. Within ten (10) days after receiving an application for variance, the Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made and place it on the Board of Zoning Appeals' agenda.
- (c) Review by the Board. According to the procedures established for appeals in this Chapter, the Board of Zoning Appeals shall hold a public hearing and give notice of the same. The Board of Zoning Appeals shall review each application for a variance to determine if it complies with the purpose and intent of this Zoning Code and evidence demonstrates that the literal enforcement of this Zoning Code will result in practical difficulty. The Board shall not grant a variance unless it shall, in each case, make specific findings of fact directly based upon the particular evidence presented to it from the factors below.

Area Variance. The following factors shall be considered and weighed by the Board to determine practical difficulty:

- (1) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are

- exceptional irregularity; narrowness, shallowness or steepness of the lot; or proximity to inharmonious uses, structures or conditions;
- (2) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
  - (3) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
  - (4) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
  - (5) Whether the variance would adversely affect the delivery of governmental services, such as water, sewer, or trash pickup;
  - (6) Whether the property owner purchased the property with knowledge of the zoning restrictions;
  - (7) Whether special conditions or circumstances exist as a result of actions of the owner;
  - (8) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
  - (9) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;
  - (10) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district; and,
  - (11) Whether a literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.
- (d) Requests for Additional Information. The Board of Zoning Appeals may request that the applicant supply additional information that the Board of Zoning Appeals deems necessary to review and evaluate the request for a variance.
- (e) Additional Conditions and Safeguards. The Board may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulation(s) or provision(s) to which the variance applies will be met. Violation of such conditions and safeguards, when made a part of the terms under which the application is granted, shall be deemed a violation punishable under Chapter 1123, Enforcement and Penalties.

- (f) Action by the Board. The Board shall act according to the procedures established for appeals in this Chapter.
- (1) The Board shall:
    - A. approve,
    - B. approve with supplementary conditions, or
    - C. disapprove the request.
  - (2) The Board shall have the power, in specific cases, to vary the application of certain provisions of this Code in order that the public health, safety, morals and general welfare may be safeguarded and substantial justice done.

**SECTION 1133.19 APPEAL OF BOARD'S DECISION.**

Decisions of the Board of Zoning Appeals shall be final within the Municipality, except that an appeal from any decision may be taken to the Court of Common Pleas in accordance with the laws of the State by any proper and interested party, including the Village of Waite Hill.

**CHAPTER 1135**  
**Nonconforming Uses, Lots and Structures**

1135.01	Intent.	1135.07	Nonconforming Buildings and Structures.
1135.03	Lawful Nonconformance.	1135.09	Nonconforming Lots.
1135.05	Nonconforming Uses		

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**SECTION 1135.01 INTENT.**

- (a) Within the districts established by the Zoning Code, or Amendments that may later be adopted, there exist lots, structures, and uses of land and/or structures which were lawful before the Zoning Code was adopted but which do not conform to regulations and restrictions under the terms of the Zoning Code. It is the intent to permit those nonconformities to continue. It is further intended that nonconformities not be enlarged upon, expanded, or extended nor be used as grounds for adding other lots, structures, or uses which are otherwise prohibited.
- (b) Nothing in this Zoning Code shall require any change in the plans, construction or designated use of a building for which a building permit has been issued and the construction of which was lawfully begun prior to the effective date of the Zoning Code or Amendments thereto and on which construction has been carried on diligently in accordance with approved plans.

**SECTION 1135.03 LAWFUL NONCONFORMANCE.**

The provisions of this Chapter shall apply to any building, structure, land, or use hereafter becoming nonconforming as a result of the adoption of this Zoning Code as well as amendments made to this Zoning Code or the Official Zoning Map.

- (a) A nonconforming lot, use, building or structure does not include nonconformity with regulations pursuant to a legally granted variance from a zoning regulation.
- (b) Ordinary repairs, repair or replacement of non-bearing walls, fixtures, wiring, or plumbing may be performed on a nonconforming structure or on any portion of a structure that contains a nonconforming use provided that the cubic content shall not be increased and no structural parts shall be replaced except when required by law to restore such building or structure to a safe condition or to make the building or structure conform to the regulations of the district in which it is located.

**SECTION 1135.05 NONCONFORMING USES.**

Where, at the time of passage of any provision of the Zoning Code, lawful use of land and/or structures exists which would not be permitted by said provision, the use may be continued so long as it remains otherwise lawful, provided:

- (a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the date of adoption or amendment of the Zoning Code;
- (b) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the Zoning Code;
- (c) No additional structure not conforming to the requirements of the Zoning Code shall be erected in connection with such nonconforming use;
- (d) When any nonconforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed;
- (e) If any such nonconforming use ceases for any reason for a period of more than six (6) months, any subsequent use shall conform to the regulations specified by the Zoning Code for the district in which such land is located;
- (f) Removal or destruction of the structure occupied by such nonconforming use shall eliminate the nonconforming status. Destruction for the purpose of this subsection is defined as damage to more than sixty-six percent (66%) of the area of the structure, as calculated by the Village Engineer utilizing the footprint of the building measured around its perimeter and including all levels of the structure. No nonconforming use shall be established after said destruction or removal;
- (g) If a nonconforming use is altered so as to increase its conformity, it shall not, at any time, revert to its previous level of nonconformity.

#### **SECTION 1135.07 NONCONFORMING BUILDINGS & STRUCTURES.**

Where a lawful structure exists at the effective date of adoption or amendment of any provision of the Zoning Code that could not be built under the terms of said provision by reason of restrictions on size, height, setbacks, or lot coverage, such structure may be continued so long as it remains otherwise lawful, provided:

- (a) No such nonconforming structure may be enlarged, altered, or reconstructed in a way which increases its nonconformity, but any such structure may be altered to decrease its nonconformity, except as otherwise provided below;
- (b) Should such nonconforming structure be destroyed by fire or other casualty to an extent of more than sixty-six percent (66%) of the structure, as calculated by the Village Engineer utilizing the footprint of the building measured around its perimeter and including all levels of the structure, the remainder of the building shall be demolished and shall not be reconstructed except in conformity with the provisions of the Zoning Code;
- (c) Should the owner of the property intentionally demolish more than fifty percent (50%) of the area of the structure, as calculated by the Village Engineer utilizing the

footprint of the building measured around its perimeter and including all levels of the structure, the remainder of the building shall be demolished and shall not be reconstructed except in conformity with the provisions of the Zoning Code;

- (d) If a nonconforming structure becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located;
- (e) Any structure which is nonconforming solely because of its encroachment in a required setback area may be extended in any lawful manner that does not further encroach in that setback.

**SECTION 1135.09                      NONCONFORMING LOTS.**

- (a) Any lot of record existing at the time of the adoption of any provision of this Zoning Code, which does not meet the requirements of said provision, shall be considered buildable provided that the site plan meets all setback requirements established by the Zoning Code.
- (b) No such lot or parcel or portion thereof shall be used or sold in a manner diminishing compliance with lot width and area requirements established by the Zoning Code, nor shall any division be made which creates a lot width or area below the requirements stated in the Zoning Code.

**TITLE FIVE**  
**ZONING DISTRICT AND USE REGULATIONS**

**CHAPTER 1139**  
**Establishment of Districts and Map**

- 1139.01 Establishment of Districts.
- 1139.03 Official Zoning Map.
- 1139.05 Interpretation of District Boundaries.

**SECTION 1139.01 ESTABLISHMENT OF DISTRICTS.**

In order to carry out the purpose of this Code, the Village is hereby divided into the following districts, all of which are designated on the Official Zoning Map by symbols and boundaries. The districts shall be known as:

<u>District</u>	<u>Symbol</u>
<u>Residential Districts</u>	
Single-Family Residence District	R-3
Single-Family Residence District	R-10
Building Zone Development District	BZ
<u>Other District</u>	
Open Space Natural Area Preservation District	OS

**SECTION 1139.03 OFFICIAL ZONING MAP.**

- (a) The boundaries of the districts are shown upon the map designated as the Official Zoning Map. The Official Zoning Map, which is signed by the Planning and Zoning Commission of Waite Hill, Ohio, and all of the notations, references and other information shown thereon, are a part of this Code and have the same force and effect as if the Official Zoning Map and all the notations, references and other information shown thereon were all fully set forth or described herein, the original of which is properly attested to and is on file with the Zoning Administrator.
- (b) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Code.
- (c) In the event that the Map becomes damaged, destroyed or lost, Council may by Ordinance adopt a new, Official Zoning Map, which shall supersede the prior Map. The new Map may correct drafting or other errors or omissions in the prior Map.

**SECTION 1139.05 INTERPRETION OF DISTRICT BOUNDARIES.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Official Zoning Map, the following rules shall apply:

- (a) Where the designation of a boundary line on the zoning map coincides with the location of a street, the centerline of such street shall be construed to be the boundary of such district;
- (b) Where the district boundaries do not coincide with the location of streets, but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district;
- (c) Where the district boundaries do not coincide with the location of streets or lot lines, the district boundaries shall be determined by the use of the scale shown on the Official Zoning Map described in sub-section **1139.03**;
- (d) All streets, public ways, waterways, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, public ways, waterways and railroad rights-of-way;
- (e) Where the centerline of a street, public way, waterway, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline;
- (f) Whenever any street, alley or other public way is vacated by official action as provided by law, the zoning district adjoining the each side of such public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended; and,
- (g) All uncertainties and disputes concerning the exact location of zoning district boundaries shall be resolved by the Planning and Zoning Commission according to the rules and regulations that it may adopt.



**CHAPTER 1141**  
**Single-Family Residence District Regulations**

1141.01	Intent.	1141.15	Accessory Uses & Structures.
1141.03	Use Regulations.	1141.17	Design Criteria for One-family Dwellings.
1141.05	Lot Requirements.	1141.19	Supplemental Regulations for Specific Uses.
1141.07	Setback Requirements.	1141.21	Plan Review.
1141.09	Height Regulations.		
1141.11	Floor Area Requirements		
1141.13	Projections into Required Setbacks		

**SECTION 1141.01 INTENT.**

Single-Family Residence Districts (R-3 and R-10) and their regulations are established in order to achieve, among others, the following purposes:

- (a) To preserve and protect the scenic beauty, the ecology and rural character of the Village for the benefit of its citizens and those of surrounding communities by essentially restricting development to low density housing.
- (b) To regulate the bulk and location of dwellings, accessory buildings, and other structures on each lot;
- (c) To protect the desirable characteristics and promote the stability of existing residential development;
- (d) To promote the most desirable and beneficial use of the land in accordance with the objectives and goals of the Village of Waite Hill;
- (e) To protect and preserve the value, appearance and use of property through the preservation of historic character consistent with the development of the Village;
- (f) To protect and provide adequate open spaces and to insure adequate ground areas from which to obtain adequate water supply and for the safe and healthful disposal of waste; and,
- (g) To maintain a living unit density consistent with Village tradition.

**SECTION 1141.03 USE REGULATIONS.**

- (a) Uses Permitted By Right. A use listed in Schedule 1141.03 shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other Village ordinances and this Zoning Code have been met;

- (b) Accessory Uses. An accessory use that is clearly incidental and subordinate to a use listed in Schedule 1141.03, when denoted by the letter “A,” shall be permitted provided that the requirements of all other Village ordinances and this Zoning Code have been met.
- (c) Compliance with Standards. Although a use may be indicated as a permitted principal or accessory use in a particular district, it shall not be approved on a lot unless it can be located thereon in full compliance with all of the standards and other regulations of this Code applicable to the specific use and lot in question.
- (d) Use Not Listed in Schedule. Any use not specifically listed as a permitted principal use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Code and/or the Zoning Map as provided in Chapter 1131.
- (e) Schedule 1141.03 Permitted Uses.

<b>Schedule 1141.03 Permitted Uses<sup>(f)</sup></b>		
	<b>R-3</b>	<b>R-10</b>
	<b>Single-Family Residence District</b>	<b>Single-Family Residence District</b>
<b>(1) Residential</b>		
A. One-family dwelling, detached	P	P
B. Conservation Development in compliance with Chapter 1143	P	P
<b>(2) Community Facilities/Institutions</b>		
A. Civic center	P	P
B. Library	P	P
C. Places of worship/church	P	P
D. Public safety facility	P	P
E. Public service facility	P	P

<b>Schedule 1141.03 Permitted Uses<sup>(f)</sup></b>		
	<b>R-3</b>	<b>R-10</b>
	<b>Single-Family Residence District</b>	<b>Single-Family Residence District</b>
<b>(3) Other</b>		
A. Agriculture <sup>(b)</sup>		P
B. Cemetery <sup>(g)</sup>		P
C. Nurseries		P
<b>(4) Accessory Uses</b>		
A. Detached accessory buildings, including garages, barns and stables, coops, and sheds <sup>(a)</sup>	<i>A</i>	<i>A</i>
B. Fences, walls <sup>(a)</sup>	<i>A</i>	<i>A</i>
C. Greenhouse <sup>(a) (c)</sup>	<i>A</i>	<i>A</i>
D. Home occupation <sup>(a)</sup>	<i>A</i>	<i>A</i>
E. Kennel <sup>(d) (a)</sup>	<i>A</i>	<i>A</i>
F. Other accessory structures <sup>(a) (e)</sup>	<i>A</i>	<i>A</i>
G. Private recreational facilities such as, but not limited to tennis courts, stables <sup>(a)</sup>	<i>A</i>	<i>A</i>
H. Private swimming pools <sup>(a)</sup>	<i>A</i>	<i>A</i>
I. Raising of fruit and garden crops <sup>(e)</sup>	<i>A</i>	<i>A</i>
J. Signs	<i>A</i>	<i>A</i>

<b>Schedule 1141.03 Permitted Uses<sup>(f)</sup></b>		
	<b>R-3</b>	<b>R-10</b>
	<b>Single-Family Residence District</b>	<b>Single-Family Residence District</b>
<p><u>Notes to Schedule 1141.03:</u></p> <p>(a) See Section 1141.15, Accessory Use and Structures.</p> <p>(b) Such uses shall have a minimum lot area of ten (10) acres. Equipment associated with the agricultural use shall be stored and/or parked in compliance with the required front, side and rear setbacks set forth in Schedule 1141.07.</p> <p>(c) Such crops/greenhouses shall only be for the use of the occupants of the premises.</p> <p>(d) Including only kennels or housing for household pets and/or permitted domesticated animals.</p> <p>(e) Barns, stables, coops, hutches, corrals and other similar structures are permitted pursuant to subsection 1141.15.</p> <p>(f) Other uses mandated by law shall be considered pursuant to the procedures in Chapter 1127, Site Plan Review Procedures.</p> <p>(g) Cemeteries shall have a minimum lot area of ten (10) acres. Grave markers shall not be required to comply with the required setbacks established by this Chapter.</p> <p>P = Use permitted by right; A = Accessory use; Blank cell = Use not permitted in district</p>		

**SECTION 1141.05 LOT REQUIREMENTS.**

- (a) Minimum Lot Area and Width. The area and width of a lot shall not be less than the dimensions set forth in Schedule 1141.05 for the district in which the lot is located, except as otherwise regulated in this Code.
- (b) Maximum Lot Coverage. The maximum lot coverage shall be as set forth in Schedule 1141.05 for the district in which the lot is located.
- (c) Schedule 1141.05 Minimum Lot Requirements:

<b>Schedule 1141.05 Minimum Lot Requirements</b>		
	<b>R-3</b>	<b>R-10</b>
	<b>Single-Family Residence District</b>	<b>Single-Family Residence District</b>

<b>Schedule 1141.05 Minimum Lot Requirements</b>		
	<b>R-3 Single-Family Residence District</b>	<b>R-10 Single-Family Residence District</b>
<b>(1) Minimum lot area</b>	3 acres	10 acres
<b>(2) Minimum lot width at building setback line<sup>(a)</sup></b>	225 feet	250 feet
<b>(3) Maximum lot coverage</b>	25%	20%
<sup>(a)</sup> On curved streets, the lot width shall be the arc length of the building setback line.		

**SECTION 1141.07 SETBACK REQUIREMENTS.**

Dwelling units, including attached decks, patios, and similar structures, shall be located on a lot in a manner that maintains the minimum front, side, and rear setbacks set forth in this Section for the district in which the lot is located, except as otherwise regulated in Chapter 1143, Conservation Development Regulations. The area within each required setback shall remain unobstructed by structures, except as otherwise permitted in this Code.

- (a) Front Setback. Each lot shall maintain a front setback in compliance with Schedule 1141.07.
- (b) Front Setback on Through Lots. On a through lot, a front setback shall be provided on each frontage equal to the minimum required front setback as set forth in Schedule 1141.07. There shall be no required rear setback on a through lot.
- (c) Side Setbacks. Each interior and through lot shall have and maintain two side setbacks. Schedule 1141.07 sets forth the minimum width of each side setback.
- (d) Rear Setbacks. Each lot shall have and maintain a rear setback as specified in Schedule 1141.07.
- (e) Schedule 1141.07 Minimum Setback Requirements:

<b>Schedule 1141.07</b>		
<i>Minimum Setback Requirements</i>		
	<b>R-3 Single-Family Residence District</b>	<b>R-10 Single-Family Residence District</b>
<b>(1) Minimum Front Setback</b>	150 feet	200 feet
<b>(2) Minimum Side Setback</b>	75 feet	100 feet
<b>(3) Minimum Rear Setback</b>	200 feet	200 feet

**SECTION 1141.09 HEIGHT REQUIREMENTS.**

All buildings and structures in any residential district shall comply with the following height regulations:

- (a) The height of principal buildings and structures shall not exceed 2 and one-half (2.5) stories and forty (40) feet.
- (b) The height of accessory buildings and structures shall not exceed forty (40) feet.
- (c) During the site plan review process, an applicant may request that the Planning and Zoning Commission and the Architectural Board of Review consider an exception to the height requirement for both principal and accessory buildings and structures. Such an exception shall be not granted unless findings are made that the increased height will not adversely harm adjacent properties and the character of the surrounding area due to the setback of the proposed structure/building, the topography of the applicant’s site or surrounding properties, or similar criteria.

**SECTION 1141.11 FLOOR AREA REQUIREMENTS.**

In order to promote healthful living conditions and to stabilize the value and character of residential areas, one-family dwelling units shall be erected, altered, moved, maintained or occupied only in accordance with the minimum floor area requirements set forth in this Section.

<b>Schedule 1141.11</b>		
<i>Minimum Floor Area Requirements<sup>(b)</sup></i>		
	<b>R-3 Single-Family Residence District</b>	<b>R-10 Single-Family Residence District</b>
<b>(a) Total Minimum Floor Area of the One-family Dwelling, Detached</b>	2300 square feet	2500 square feet
<b>(b) Minimum Main Floor Area if One-family Dwelling, Detached is more than one (1) story <sup>(a)</sup></b>	1500 square feet	1500 square feet
<p><sup>(a)</sup> The "main floor" is that portion of the floor area having direct access to or from the ground area immediately adjacent thereto. It shall also mean the total floor areas where there is no greater difference in elevation than four (4) feet between floors.</p> <p><sup>(b)</sup> Floor area, for the purposes of this Schedule, means Floor Area, Net and does not include detached accessory buildings.</p>		

**SECTION 1141.13 PROJECTIONS INTO REQUIRED SETBACKS.**

- (a) Structural Projections. A structural projection is a feature of a building that extends outside the enclosing walls as an integral and functional part of the plane, thus providing form and interest to the exterior design, and connections and protection to exterior spaces. Projections shall, however, be designed and constructed so as not to substantially interfere with the reception of sun, light, and air and the use of adjoining lots.
- (b) Principal Building Projection Into Required Setbacks. No portion of any building may project into the setbacks established in Schedule 1141.07 above, except for cornices, belt courses, entrance canopies and similar overhanging roofed spaces, chimneys, porticos, bays, and steps that may project not more than three (3) feet into such setbacks.

**SECTION 1141.15 ACCESSORY USES AND STRUCTURES.**

Accessory uses, buildings, and structures permitted in residential districts and associated with a one-family detached dwelling, shall conform to the location, coverage, area, and maintenance standards contained in this Section and this Code. No accessory building or use shall be established on a lot unless a principal building or use has first been established on the lot in conformance with all applicable provisions of this Zoning Code. No accessory building shall be used, enlarged, restored or maintained in such a manner as to become the main or principal use, nor shall such use be designated as an accessory use for the purpose of avoiding the intent and purpose of any provision of this Zoning Code.

- (a) Location Requirements for Accessory Uses. An accessory building or use permitted in a residential district shall be located as set forth in Schedule 1141.15. However, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in this Zoning Code.
- (b) Schedule 1141.15 Permitted Accessory Structures In Front, Side And Rear Yards:

<b>Schedule 1141.15 Permitted Accessory Structures In Front, Side And Rear Yards</b>				
Use	Yard Permitted	Minimum Setback From Lot Line		
		Front	Side	Rear
<b>(1) Detached accessory buildings, including garages, barns and stables, coops, and sheds</b>	Rear, Side	NP	50 feet	50 feet
<b>(2) Driveways</b>	Front, corner side, side, rear	NA	10 feet <sup>(b)</sup>	10 feet <sup>(b)</sup>
<b>(3) Fences, walls</b>	Front, corner side, side, rear	0 ft.	0 ft.	0 ft.
<b>(4) Private swimming pools<sup>(a)</sup></b>	Rear	NP	See also Section 1141.15 (f)	
<b>(5) Other accessory structures such as but not limited to tennis courts, recreational equipment, etc.</b>	Rear	NP	50 feet	50 feet
<b>(6) Outdoor storage of recreation vehicles/equipment.</b>	Rear	See also Section 1141.15 (i)		
<b>Notes to Schedule 1141.15:</b>				
<ul style="list-style-type: none"> <li>(a) See also Section 1141.15 (f)</li> <li>(b) During the site plan review process, an applicant may request that the Planning and Zoning Commission consider an exception to the setback requirement for driveways when site conditions, such as topography; existing buildings; existing trees/landscaping; or similar factors, necessitate a lesser driveway setback.</li> </ul>				



<b>Schedule 1141.15</b>				
<b>Permitted Accessory Structures In Front, Side And Rear Yards</b>				
<b>Use</b>	<b>Yard Permitted</b>	<b>Minimum Setback From Lot Line</b>		
		<b>Front</b>	<b>Side</b>	<b>Rear</b>
NA	Not Applicable			
NP	Not Permitted			

- (c) Accessory Structures & Buildings. The total of all accessory structures and buildings, excluding corrals and detached garages, shall not exceed one percent (1%) of the lot area.
  
- (d) Detached Garages. Accessory detached garages shall be limited to 200 square feet for each 15,000 square feet of lot area, but not exceeding a total of 1200 square feet; provided, however, that on farms under cultivation with lots of five (5) acres or more, additional farm vehicles and equipment may be housed as may be necessary.
  
- (e) Additional Regulations for Parking Areas. Accessory off-street parking spaces shall be provided in compliance with the parking requirements set forth in Chapter 1151, Off-Street Parking Regulations, which shall be located on the same lot as the dwelling served.
  
- (f) Private Swimming Pools. A private swimming pool, not including farm ponds; retention basins; and lakes, shall be any pool or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1.5) feet. No such swimming pool, exclusive of portable swimming pools with a diameter less than twelve (12) feet or with an area of less than 100 square feet, shall be allowed in any R-3 or R-10 District, except as an accessory use and unless it complies with the following conditions and requirements:
  - (1) Private swimming pools shall be located on the same zoning lot with the principle use to which it is an accessory use.
  - (2) It shall not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than twenty-five (25) feet to any property line of the property and shall be a minimum of ten (10) feet from the principal building;
  - (3) The pool is intended and is to be used solely by the occupants and guests of the principal use of the property on which it is located;
  - (4) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties;

- (5) Whenever light is used to illuminate such pool, such lights shall be installed and shielded in such a manner as to direct light onto the pool only and not to reflect light onto any abutting residential property.
  - (6) The swimming pool shall comply with the locational and coverage requirements set forth in this Chapter.
  - (7) The construction and operation of a pool shall meet all other applicable Village regulations.
- (g) Fences and Walls. The purpose of this subsection is to affirm the Village policy encouraging the preservation and conservation of open space and to establish regulations controlling the location, installation, maintenance and standards for fences in order that a property owner may construct and maintain a fence which secures privacy, offers attractive landscape design and/or affords security while assuring that such fences are located and constructed so as to respect the rights and enjoyment of neighboring property owners, preserving the integrity of scenic zones, maintaining the appearance of the community, and securing the overall health, safety and public welfare of the residents of the Village.
- (1) Scope. This subsection 1141.15(g) sets forth regulations pertaining to the location, installation, maintenance and standards for new fences in all residential zoning districts in the Village.
    - A. Any fence erected prior to the date of the adoption of this subsection 1141.15(g) which does not comply with these regulations shall be nonconforming. However, such nonconformance shall not cause an order for removal. The Village may order immediate remedial measures to alleviate or prevent any hazardous conditions when the Planning and Zoning Commission determines that such conditions, whether conforming or nonconforming, jeopardize the health and safety of residents, occupants, wildlife or domestic animals.
    - B. Trellises, living fences, hedges and other living materials shall not be deemed to constitute fences within the meaning of this subsection 1141.15(g).
    - C. All fences shall require review and approval in accordance with Chapter 1127, Site Plan Review Procedures.
  - (2) Definitions. As used in this subsection 1141.15(g), certain terms are defined as follows:
    - A. "Fence" means any structure composed of wood, iron, steel, masonry, stone or any other materials which are erected in such a manner and in such a location so as to in whole or in part enclose, secure, provide privacy, decorate, define the scope or limits of, or otherwise enhance all or an identifiable part of any premises.

- B. "Fence open area" means the percentage of the surface area of a fence which permits passage of light and air. In computing the "fence open area" gates and/or gate opening areas shall not be considered. No area higher than the highest horizontal fence part nor lower than the lowest horizontal fence part shall be considered as contributing to or constituting a part of the surface area of a fence when computing the "fence open area" required by this Chapter.
- C. "Surface area" means the area between the highest horizontal fence part and the lowest horizontal fence part, excluding gates and/or gate opening areas.
- D. "Ornamental fence" means a fence constructed for its beauty or decorative effect and when viewed at a right angle, has not less than seventy-five percent (75%) of the area of its vertical plane, the area within a rectangular outline enclosing all parts of the fence in its plane, as "fence open area." Ornamental fences include:
- (i) "Rail and post" or "split-rail fence" means a fence constructed of narrow, whole or split, wooden timbers placed horizontally between upright supporting posts; and,
  - (ii) Wrought iron fences, decorative steel fences, and aluminum fences.

(3) Nonconforming Fences; Plot Plan.

- A. Site plan review shall not be required of a person repairing, replacing or otherwise altering a conforming or nonconforming fence, provided however, that if a nonconforming fence is in such condition that more than one-half of such nonconforming fence is to be repaired, replaced or otherwise altered, site plan review shall be required in accordance with Chapter 1127, Site Plan Review Procedures.
- B. In lieu of the submission requirements in Section 1127.17 (c), the application shall be accompanied by a plot plan, unless waived by the Zoning Administrator, drawn to scale of not less than one inch to one hundred (100) feet showing the following:
- i. Location of all structures upon the premises;
  - ii. The location of the proposed fence;
  - iii. All property lines of the subject premises on which a fence is proposed to be constructed, erected, altered or rebuilt;
  - iv. The public street, road, highway, lane or private right of way which such premises abut;
  - v. Plans and specifications of the proposed fence;

- vi. Material to be used in the proposed fence;
- vii. Height of the proposed fence from established grade;
- viii. A computation of the "fence open area" of the proposed fence; and,
- ix. A proposed scheduled completion date.

(4) Fences Permitted.

A. Visible from a Neighboring Residence or from a Public or Shared Right of Way. Fences which are visible from any neighboring residence or from a public or shared right of way are permitted only when they are:

- i. "Split rail" or "rail and post" fences which do not exceed four (4) feet in height above established grade which contain seventy-five percent (75%) or greater "fence open area," are constructed of natural wood which is either untreated or treated in a natural wood finish, and whose vertical posts are separated by not less than four feet in distance from one another; or,
- ii. "Decorative entry features" constructed of authentic stucco on masonry, stone, or brick, which do not exceed six (6) feet in height above established grade and twenty (20) feet in length at corners and entrances for aesthetic reasons; or,
- iii. Ornamental fences which do not exceed four (4) feet in height and whose vertical posts are separated by not less than four (4) feet in distance from one another; or,
- iv. Fences of construction and/or materials not expressly prohibited by this subsection 1141.15(g) and which the Village Architectural Board of Review shall expressly determine to be harmonious and compatible with those objectives expressed in Section 7.34 of the Village Charter, which section is incorporated by reference into this section as if fully rewritten herein, and this subsection 1151.15(g). Harmonious and compatible fencing materials may include finished wood, iron, metal, or synthetic look-alike products provided such are approved by the Village Architectural Board of Review as provided for in this subsection 1141.15(g).

B. Not Visible from any Neighboring Residence or From a Public or Shared Right of Way. Fences are permitted in areas not visible from any neighboring residence or from a public or shared right of way if they are:

- i. Fences authorized in subsection A. hereof; or,

- ii. Fences of any materials or construction other than chain link, barbed wire, or stockade which are no higher than six (6) feet above established grade.
- C. Chain Link Enclosures for Tennis Courts or other Similar Recreation Areas, Swimming Pools, or Pet Runs. Metal chain link fences are permitted if they have seventy-five percent (75%) or greater "fence open area" and if they:
- i. Do not exceed ten (10) feet in height and enclose a tennis court or other similar recreational area; or
  - ii. Do not exceed five (5) feet in height and enclose a swimming pool; or
  - iii. Do not exceed six (6) feet in height and enclose a pet run.

A landscape plan to screen such enclosures may be required when the plot plan is reviewed in accordance with Chapter 1127, Site Plan Review Procedures.

- D. The provisions of subsections A. and B. hereof shall not apply to fence enclosures authorized by this subsection C.

(5) Fences Materials.

- A. No person shall construct or maintain a stockade or barbed wire fence within the Village.
- B. Unless permitted by subsection 1141.15(g)(4)C, no person shall construct or maintain a chain link fence within the Village.

(6) Temporary Fences. The provisions of this subsection shall not apply to any temporary fence enclosing a permitted construction site or any temporary snow fence erected to prevent the drifting of snow provided that such temporary snow fence is erected not earlier than October 15 and is removed not later than April 15.

(7) General Conditions.

- A. All fences shall be maintained in good repair and condition by the owner and/or occupant, and shall be structurally sound and attractively finished at all times. Any ground between the fence and property line shall be well maintained.
- B. All fences shall be designed, constructed and finished so that the supporting members of such fence face the property of the owner of the fence.

- C. Any fence in a side yard which is parallel to and plainly visible from the public or private right of way shall be reasonably screened from the street with appropriate landscaping such as, but not limited to:
- i. One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet;
  - ii. One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet of fence length or fraction thereof, not including gates or other fence openings; and,
  - iii. The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.
  - iv. During site plan review, the Architectural Board of Review may require landscaping beyond the requirements of this subsection **1141.15 (g)(7)C.** when necessary due to the amount of “fence open area.” The Architectural Board of Review may also waive the screening required by this subsection if existing, natural landscaping provides sufficient screening to meet the intent of this subsection **1141.15 (g).**
- D. No mesh wire fence shall be constructed unless the unfinished and sharp edges on the fence are pointing toward the ground. The top edges of all metal fences constructed, erected or maintained shall be of smooth finish with no protruding sharp edges.
- E. In order for a fence to be constructed adjacent to, or in proximity with a property line, the property owner proposing the fence shall construct the fence so that it can be easily dismantled from its owner's side for the purpose of maintaining it entirely within the owner's property.
- F. At all street intersections, the intersection of private driveways and public rights of way, and the intersections of two (2) driveways, and ten (10) feet in any direction therefrom, there shall be no fence or dense vegetation, which in the judgment of the Chief of Police, may impede the clear vision between vehicles and pedestrians at such intersections.

(8) Inspection; Appeal to Board of Zoning Appeals.

- A. Inspection. It shall be the duty of each property owner to determine property lines and to ascertain that the fence thus constructed does not deviate from the plans as approved by the Village, and that such fence does not encroach upon another lot or parcel of land. The Village shall furnish

such inspection as is deemed necessary to determine that the fence is constructed in accordance with the plan submitted for site plan review, provided however, that the issuance of the zoning certificate by the Village shall not be construed to mean that the Village has determined that the fence is not encroaching upon another lot, nor shall it relieve the property owner of any duty imposed upon him by this or any other ordinance, code and/or the general laws of the State of Ohio.

B. Appeals to Board of Zoning Appeals. Any party adversely affected, including the Village, may take a written appeal to the Board of Zoning Appeals in accordance with Chapter 1133, Appeals and Variances. The Board of Zoning Appeals may permit variances from these regulations in cases where exceptional physical conditions exist, or the established regulations or standards of this section are inappropriate or inapplicable, and the requested variances will not adversely affect the purposes of this subsection 1141.15(g).

(h) Additional Regulations for Vehicles.

- (1) The repainting, rebuilding, overhauling, or dismantling of a vehicle or the storage of tires, motor, body or other parts in an open yard is prohibited on a residential lot.
- (2) The overnight parking or the outdoor storage of commercial motor vehicles, as defined in Section 341.01, is prohibited.
- (3) The parking or storing of vehicles shall not be permitted in the established lawn areas of residential lots, except as otherwise permitted in this Code.

(i) Outdoor Storage of Recreation Vehicles/Equipment. The outside storage and parking of recreational vehicle/equipment shall be permitted as an accessory use subject to the following conditions and limitations:

- (1) They shall not be connected to electricity, water, gas, or sanitary sewer facilities, and at no time shall this vehicle/equipment be used for living or housekeeping purposes.
- (2) If the recreational vehicle/equipment is parked or stored outside, it shall be parked in the rear yard; and it shall not be stored in any side setback. Such recreational vehicle/equipment shall be screened from adjacent property and the public right-of-way in accordance with subsection 1141.15 (g)(7)C.
- (3) Notwithstanding the provisions of this subsection, recreational vehicle/equipment may be parked anywhere on the premises for loading or unloading purposes, for a period of not more than 48 hours.
- (4) The area surrounding the parked or stored recreational vehicle/equipment shall be maintained pursuant to all applicable Village ordinances, codes, standards, and regulations.

- (5) All recreational vehicle/equipment shall be kept operable and in good repair and carry a current year's license or registration.
  - (6) The impervious area used for the outside storage and parking of recreational vehicle/equipment shall be included in the computation of the maximum lot coverage.
- (j) Home Occupation. The purpose of this section is to set forth regulations, which control the establishment and operation of home occupations. The intent of these regulations is to control the non-residential use of a residential dwelling unit so that the non-residential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residence district of which they are a part. Compliance with these regulations should result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.

Home occupations shall be a permitted accessory use when conducted in compliance with the following standards. When not in compliance with the following standards, such home occupation shall be declared a nuisance pursuant to the Codified Ordinances of the Village of Waite Hill.

- (1) Home occupations shall be clearly incidental and secondary in importance to the use of the dwelling for residential purposes.
- (2) No more than one (1) person other than members of the family residing on the premises shall be engaged in such home occupation;
- (3) The occupation shall be conducted wholly within a principal or accessory building, and the space used for the home occupation shall not occupy more than twenty-five percent (25%) of the net floor area of all buildings on the zoning lot.
- (4) No home occupation shall be carried on that will substantially change the residential character of the dwelling or the accessory building.
- (5) All storage of materials, goods, supplies or equipment related to the operation of a home occupation shall be inside the principal or accessory building.
- (6) The number of automobiles or trucks attracted to the premise shall not be greater than that which is normally associated with residential uses.
- (7) The noise, fumes, and vibrations generated by a home occupation shall not be greater than the expected levels or amounts typical of a residential area, and such noise level, fumes or vibrations shall not create a nuisance in the neighborhood.
- (8) No wholesale, jobbing, or retail business shall be permitted unless it is conducted entirely by mail, telephone, or electronically and does not involve the receipt, delivery, sale or storage of merchandise on or from the premises.



**SECTION 1141.17                      DESIGN CRITERIA FOR ONE FAMILY  
   DWELLINGS.**

- (a) The purpose of the following design criteria is to further the goals of the Village including:
- (1) The promotion and protection of the public health, convenience, comfort, prosperity and general welfare by regulating the exterior design of buildings and structures to assure orderly and reasonably harmonious development;
  - (2) The protection and preservation of property values when buildings are constructed or altered to prevent the impairment or destruction of real estate values;
  - (3) The regulation, according to accepted and recognized architectural principles, of the design and use of materials on all principal and accessory buildings to be created, moved, altered, remodeled or repaired;
  - (4) The construction of high-quality buildings in terms of the design and materials selected given the architectural style of the building; and,
  - (5) The prevention of the harmful effects of excessively similar, dissimilar, or inappropriate exterior design of buildings or structures in relation to the exterior design of buildings prevailing in the Village.
- (b) The provisions of this Section shall apply to all residential development including principal and accessory buildings. Any addition, remodeling, relocation, or construction requiring review shall adhere to the guidelines in this Section, where applicable. The Architectural Board of Review may exempt applicants from these standards when the exterior building modifications are minor in nature, meaning the design modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development.
- (c) Character of Dwellings. Principal dwellings and accessory building are to be designed and located on the site and be of a scale to complement buildings in close proximity and enhance the character of the surrounding area by having features that

are appropriate and compatible with existing buildings and structures. In making this determination, the following shall be considered:

- (1) Building height, width, and general proportions;
- (2) Architectural features, including patterns of windows and doors, roof pitch, balconies, porches, shutters, dormers, eaves and other decorative detail;
- (3) Building materials.
- (4) Explanation Of Terms. Certain terms and words shall be interpreted with regard to the following explanations:
  - A. Appropriateness. A proposal is judged to be appropriate when it respects the existing architectural style of a building or buildings and fits comfortably within its setting, neighborhood and overall community. This condition applies to landscaping and accessory structures, as well.
  - B. Compatibility. A design or a material selection is compatible when it does not strongly deviate from the buildings on the site, or the overall character of the neighborhood. To be compatible does not require look alike designs, but rather designs that reflect some aspects of the building or buildings in the general vicinity, such as scale of windows, overhangs, building materials, patterns of siding, roof slope. Conversely, incompatibility occurs when an architectural design, landscape design or accessory building proposal is aesthetically harsh or overwhelming relative to its neighbors. The Architectural Board of Review need not consider compatibility when the building under review is determined to be so isolated that it has no bearing on adjacent property or the neighborhood.
  - C. Proportion. The relationship of parts of a building, landscape, structures, or buildings to each other and to the whole balance.
  - D. Proximity. Proximity shall be considered in terms of the potential for one property, by virtue of its location, to materially affect other properties. In determining a property to be in proximity to another, the following factors shall be considered:
    - i. The visibility of both properties from a common point; or,
    - ii. The location of both properties within a relatively compact network of streets, walkways, or spaces.
- (b) Façade Articulation. The articulation of facades and the massing of structures give them richness and scale. Long uninterrupted exterior walls should be avoided. All building walls should have relief to create interest and reduce bulk.

- (c) Roof Articulation. For sloped roofs, both vertical and horizontal articulation is encouraged. Rooflines should be representative of the design and scale of surrounding dwellings. Roof articulation may be achieved by changes in plane and/or the use of traditional roof forms such as gables, hips, and dormers.

**SECTION 1141.19 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.**

In addition to the standards set forth in this Chapter, the uses listed under Community Facilities/Institutions in Schedule 1141.03 shall comply with the following regulations:

- (a) Such uses shall have a minimum lot area of ten (10) acres, and the maximum lot coverage shall be as set forth in Schedule 1141.19.

<b>Schedule 1141.19</b>		
<i>Maximum Lot Coverage</i>		
<i>Community Facilities/Institutions</i>		
<b>Lot Area</b>	<b>R-3 Single-Family Residence District Maximum Lot Coverage</b>	<b>R-10 Single-Family Residence District Maximum Lot Coverage</b>
<b>(1)</b> 10 Acres	20%	20%
<b>(2)</b> 11- 15 Acres	18%	18%
<b>(3)</b> 16-20 Acres	16%	16%
<b>(4)</b> 21-25 Acres	14%	14%
<b>(5)</b> 26-30 Acres	12%	12%
<b>(6)</b> Over 30 Acres	10%	10%

- (b) Such uses shall only be located on Eagle and Hobart Roads.
- (c) All buildings and structures, including accessory uses, buildings, and structures such as but not limited to parking lots and recreational fields, shall be considered principal

buildings and shall conform to the building setback requirements in Schedule 1141.07.

**SECTION 1141.21                    PLAN REVIEW.**

All uses in the R-3 and R-10 Districts shall be permitted only after site plans have been reviewed and approved according to the procedures set forth in Chapter 1127, Site Plan Review Procedures.

**CHAPTER 1143**  
**Conservation Development Regulations**

1143.01	Intent.	1143.13	Development Standards.
1143.03	Conformity to Standards.	1143.15	Street Requirements.
1143.05	Minimum Project Area.	1143.17	Homeowners Associations.
1143.07	Permitted Land Uses.	1143.19	Phased Development.
1143.09	Density.	1143.21	Procedures.
1143.11	Open Space Requirements	1143.23	Site Plan Review Criteria.

**SECTION 1143.01 INTENT.**

Conservation Development (CD) is a permitted development option in the R-3 and R-10 Districts to encourage and accommodate creative and imaginative Conservation Developments that provide for cluster housing and the preservation of open space in a unified project. In compliance with the following regulations, it is intended that Conservation Developments will utilize innovations in the technology of land development that are in the best interests of the Village. These regulations are designed to achieve, among others, the following objectives:

- (a) To allow creativity, variety, and flexibility in design as necessary to implement the goals and objectives set forth in this Chapter.
- (b) To promote economical and efficient use of land and public services through unified development, especially in areas with limited road access or irregular shape or which contain significant environmental features.
- (c) To preserve, to the greatest extent possible, the existing landscape, natural and open space features, and to utilize such features in a harmonious fashion.
- (d) To conserve and maintain the visual openness that characterizes the Village of Waite Hill.
- (e) To safeguard natural and scenic vistas within the Village.
- (f) To ensure that development is guided by the building zones shown on the Zoning Map.
- (g) To permit the flexible spacing of lots and buildings in order to encourage the preservation of the natural features of the site.
- (h) To ensure that the proposed Conservation Development occurs in a unified manner in accordance with a site plan prepared by the property owner.
- (i) To ensure the development will not degrade or endanger the quality of life presently enjoyed by the existing residents.

**SECTION 1143.03 CONFORMITY TO STANDARDS.**

Because of the special characteristics related to Conservation Development, specific provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Chapter and those of other Chapters of this Zoning Code, the provisions set forth in this Chapter shall prevail. Any existing provisions that are not covered by this Chapter shall be governed by the respective provisions found elsewhere in this Zoning Code.

**SECTION 1143.05 MINIMUM PROJECT AREA.**

The gross area of a tract of land proposed for development under Conservation Development regulations shall be a minimum of forty (40) acres in the R-10 District and twenty (20) acres in the R-3 District. The area proposed shall be in one ownership; if in several ownerships, all owners of the properties included in the Conservation Development shall sign and file the application jointly.

**SECTION 1143.07 PERMITTED LAND USES.**

The dwelling types that are permitted as of right within a Conservation Development are listed in Schedule 1143.07.

<b>Schedule 1143.07</b>	
<b>Permitted Dwelling Types</b>	
	R-3/R-10
(a) One-family dwelling, detached	P
(b) Cluster One-family detached dwelling	P
(c) Accessory Uses, such as community buildings and recreational facilities, detached accessory buildings	P
P = Use permitted by right	

**SECTION 1143.09 DENSITY.**

A Conservation Development shall not exceed the densities as set forth in this Section.

- (a) Maximum Density. The gross density of a CD shall not exceed the maximum number of dwelling units per acre as set forth below for the district in which the CD is located:
  - (1) In the R-3 District, the maximum dwelling units per acre is one (1) dwelling unit per three (3) acres.

- (2) In the R-10 District, the maximum dwelling units per acre is one (1) dwelling unit per ten (10) acres.
- (b) The maximum number of dwelling units permitted for a particular site shall be calculated by:
  - (1) Deducting any public right-of-way within the project boundary existing at the time the site plan is submitted; and,
  - (2) Multiplying the result of subsection (1) by the maximum number of dwelling units set forth in subsection 1143.09 (a).

### **SECTION 1143.11 OPEN SPACE REQUIREMENTS.**

A portion of the area in a Conservation Development shall be devoted to open space.

- (a) General Standards. The open space shall comply with the following regulations:
  - (1) The minimum open space required shall be forty percent (40%) of the entire project area in R-3 District and fifty percent (50%) in the R-10 Districts.
  - (2) Open space shall be aggregated areas but shall not include the following:
    - A. Public rights-of-way, private streets, drives, and parking areas;
    - B. Land fragments between two or more buildings, land fragments between buildings and parking areas, and any other land within fifteen (15) feet of all buildings and structures; and,
    - C. Required yards or setbacks between project boundaries and buildings or parking areas, unless the required setback is contiguous to and part of a larger area of open space.
  - (3) To the extent possible, open space areas shall be interconnected within the development and to adjacent parcels, and shall be easily accessible to residents of the Conservation Development.
  - (4) Open space shall be designed and located to preserve significant natural features and historical elements to the maximum extent possible especially those features shown on the Zoning Map. The following priorities should be considered when determining the land for open space designation:
    - A. Wetlands, floodplains, lakes and ponds, and other water resources. The site plan should avoid alteration of or construction within natural drainage ways, and shall utilize low impact storm water management techniques such as grassy swales to the extent possible.
      - i. Wetlands Protection. Wetlands that are required by the Army Corps of Engineers or the Ohio EPA to be retained shall be protected by the following:

- I. A setback area having a width not less than thirty-five (35) feet, measured from the edge of the designated wetland. The area within this buffer shall not be disturbed and shall be retained in its natural state.
  - II. A minimum building and pavement setback of fifty (50) feet, measured from the edge of the designated wetland.
- B. Woodlands, orchards, prime farmlands, meadows, and other vegetation. The design and layout of the development shall conserve and incorporate these areas to the maximum extent possible, especially those containing significant wildlife habitats.
  - C. Scenic visual areas with respect to tree lines, unique vegetation, wildlife habitat, and other natural features. To the maximum extent possible, structures shall be located to ensure that scenic views and vistas are unblocked or uninterrupted, particularly as seen from existing and proposed public thoroughfares.
  - D. Historic structures or buildings. Buildings or structures with significant historic meaning or traditional meaning that pertains to the Village's history, such as barns, mills, etc. shall be preserved to the maximum extent possible.
- (5) When approved by the Village, a portion of the open space may be used as retention basins, provided they are designed, arranged and landscaped in a manner consistent with the requirements for open space areas.
  - (6) The open space established as part of a Conservation Development shall be:
    - A. Dedicated to a homeowners association or similar legal entity that shall have title to the land to be retained as open space;
    - B. Given to a land trust or other conservation organization approved by the Village; or,
    - C. Offered to the Village for public open space. The Village shall have the right to not accept any land area offered to the Village. In the event of such refusal, the conditions of A. or B. above, shall apply. Any land area that is accepted by the Village for dedication as public open space shall also continue to be counted toward the requirement for open space.
  - (7) The legal documents relating to the ownership, management, public easements if any, and maintenance of such open space shall be reviewed and approved by the Village's Law Director. The Law Director shall indicate such approval prior to the final site plan being approved by the Planning and Zoning Commission.



- (b) Recreation Allowances. With the exception of extremely environmentally sensitive areas, passive recreation shall be permitted in open space for the enjoyment of the residents of the proposed development and/or the public. Active recreation shall be limited to no more than five percent (5%) of the open space. Recreational facilities proposed to be constructed in dedicated open space shall be clearly shown on the site plans.
- (c) Prohibition of Further Development of Open Space. The open space, required by Section 1143.11, shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village's Law Director and duly recorded in the Office of the Recorder of Lake County.

### **SECTION 1143.13 DEVELOPMENT STANDARDS.**

The following specific development standards shall be adhered to in the design and layout of any Conservation Development:

- (a) Minimum Setbacks from Project Boundaries and Streets: All buildings, structures and parking areas shall comply with the minimum setbacks set forth in Schedule 1143.13.
- (b) Minimum Separation Between Buildings: In order to ensure reasonable privacy and separation, individual buildings including terraces, decks and patios shall be separated by the minimum spacing set forth in Schedule 1143.13.
- (c) Height Requirements. All principal and accessory building shall comply with the regulations in Section 1141.09 , Height Requirements.
- (d) Lot Requirements: Dwelling units are not required to be on lots. However, when lots for standard detached one-family dwellings or subdivision lots for cluster one-family detached dwellings are included as part of a Conservation Development, such lots or sub lots shall be of sufficient size and shape to accommodate dwelling units in compliance with the spacing requirements of this Section.
- (e) Required Buffer: A buffer area from an existing public street right-of-way and from a perimeter side or rear property line is required and shall be landscaped with an acceptably designed wall, fence, planting screen, or mound, or some combination thereof, to provide adequate landscaping between the proposed development and adjacent areas to assure privacy for existing and future residents.
- (f) Utilities: Underground utilities, including telephone and electrical systems, are required within the limits of a Conservation Development. Appurtenances to these systems that can be effectively screened may be exempted from this requirement if the Village finds that such exemption will not violate the intent or character of the proposed Conservation Development.

- (g) Sewage Disposal: Sewage disposal systems shall comply with all applicable regulations of the Lake County Health Department and may be located within open space areas when approved by the Village and the Lake County Health Department.
  
- (h) Building Zones. Development should generally occur in the building zones shown on the Zoning Map.
  
- (i) Additional Standards: Additional development requirements, whether standards or criteria, formulated to achieve the objectives of the Conservation Development may be established at the time a Conservation Development site plan is reviewed. Any such development requirements adopted with such plan shall become binding land use requirements for the development.
  
- (j) Waivers: In the event the Village, determines that certain standards set forth in this Chapter do not or should not apply specifically to the circumstances of a particular project and an alternative method of achieving the objectives of the numerical standard is equal to or better than the strict application of the specified standard, the Planning and Zoning Commission may relax such standard to the extent deemed just and proper, provided that the granting of such relief shall be without detriment to the health and safety of the community and without detriment to or impairment of the intent of this Chapter. However, if the Planning and Zoning Commission permits the required open space to be located on individual, subdivided lots, a deed restriction or other legal mechanism should be utilized to insure that the required open space remains in the state shown on the approved final site plan.

(k) Schedule 1143.13 Development Standards:

<i>Schedule 1143.13</i>		
<b>Development Standards</b>		
	<b>R-3</b>	<b>R-10</b>
<b>(a) Minimum Setbacks</b>		
(1) Building		
◦ Existing street right-of-way	<b>150 ft.</b>	<b>200 ft.</b>
◦ Internal street <sup>(a)</sup>	30 ft.	50 ft.
◦ Setback from project boundary, other than a public street <sup>(c)</sup>	50 ft.	50 ft.
(2) Parking <sup>(b)</sup>		
◦ Existing street right-of-way	30 ft.	30 ft.
◦ Setback from project boundary, other than a public street <sup>(c)</sup>	50 ft.	50 ft.
<b>(b) Minimum Spacing Between Buildings</b>		
	75 ft	75 ft
<p><sup>(a)</sup> If the internal street is public, the setback is measured from the right-of-way. If it is private, the setback is measured from the edge of the pavement of the street. These distances may be waived on individual streets with less than 10 units.</p> <p><sup>(b)</sup> Parking shall be provided in accordance with the requirements of Chapter 1151.</p> <p><sup>(c)</sup> The project boundary line shall include all lot lines that divide the tract of land developed for CD from adjacent lots not included in the development and shall be the boundaries of the minimum area set forth in Section 1143.05, Minimum Project Area.</p>		

**SECTION 1143.15 STREET REQUIREMENTS.**

Each lot and building envelope within a Conservation Development shall have sufficient access to ensure safe and efficient traffic flow and reasonable ingress and egress for emergency vehicles. To this end, the street requirements for Conservation Developments are as follows:

- (a) Private Streets. Private streets may be approved when the Village determines that:
  - (1) The private street is not planned or expected to be extended to serve property outside the Conservation Development.
  - (2) Adequate utility easements are provided to the satisfaction of the Village and the utilities.
  - (3) The design and layout of the private street provides adequate and safe access to the intended units.
  - (4) A private street with single access shall provide access to no more than fifteen (15) dwelling units.
- (b) Required Improvements. All improvements required for a subdivision shall be constructed or provided in accordance with the standards set forth for streets in Section 1105.04.

#### **SECTION 1143.17 HOMEOWNERS ASSOCIATIONS.**

Homeowners associations, community associations, or similar legal entities that, pursuant to Section 1143.11(a)(6), are responsible for the maintenance and control of common areas including recreational facilities, open space, private streets, and buffer areas, shall be established in such a manner that complies with Chapter 1153.03, Requirements for Owners Associations.

#### **SECTION 1143.19 PHASED DEVELOPMENT.**

If the development is to be implemented in phases, each phase shall have adequate provision for access, parking, storm water management, and other public improvements to serve the development in accordance with the applicable criteria set forth. Each phase shall be provided with temporary or permanent transitional features, buffers, or protective areas in order to prevent any adverse impact on completed phases, future phases, and adjoining property.

#### **SECTION 1143.21 PROCEDURES.**

The Architectural Board of Review and the Planning and Zoning Commission shall review and approve a preliminary site plan for a proposed Conservation Development according to the procedures set forth in Chapter 1127, Site Plan Review Procedures.

- (a) Ownership. A Conservation Development shall be an integrated, unified development project and the entire project area shall be in single ownership or joint ownership and/or control at the time the application is made so that all property owners are applicants throughout the site plan review process. Any transfer of land within the development after an application has been filed and/or approved shall not alter the applicability of the regulations contained herein. A site plan approved in

accordance with this Chapter shall be binding upon the owners, their successors and assigns and shall limit and control the issuance and validity of all certificates of zoning compliance.

- (b) Submission of Preliminary Site Plan. The applicant shall submit a preliminary site plan application to the Zoning Administrator. The application shall include documentation illustrating compliance with the standards and criteria set forth in this Chapter. The application and documentation shall include the submission requirements in Chapter 1127 as well as the following:
- (1) Identification of existing site characteristics, including a general depiction of:
    - A. Boundaries of the area proposed for development, dimensions and total acreage;
    - B. Location of wetlands (and potential wetlands), the floodway boundary and floodway elevation as delineated by the Federal Emergency Management Agency, rivers and streams and their related river or stream bank, ponds, and water courses;
    - C. Locations of all wooded areas, tree lines, hedgerows, and specimen trees;
    - D. Delineation of existing drainage patterns on the property, existing wells and well sites;
    - E. Description of significant existing vegetation by type of species, health, quality, etc.; and,
    - F. Description of all structures and areas of known or potential historical significance.
  - (2) The preliminary site plan shall be drawn at a scale not less than 1" = 100', and shall include:
    - A. A summary of the proposed development including the total acreage, number of residential units, density, and acreage of the open space to be conserved;
    - B. A preliminary layout of standard one-family detached lots and cluster lots, including the building envelope;
    - C. The location of the open space and any proposed recreational facilities;
    - D. Natural features to be conserved and any required buffer areas; and,
    - E. Natural features to be altered or impacted by the development and areas where new landscaping will be installed, etc.

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- (3) An outline of the method/structure to perpetually preserve the required open space which indicates, as applicable:
    - A. The structure of the association;
    - B. Membership requirements;
    - C. Financial responsibilities; and,
    - D. Any entity having responsibilities related to the preservation of the required open space.
  - (4) A description of the project phasing, if any, including the phased construction of open space improvements.
- (c) Significance of Approved Plan. Approval of the preliminary site plan shall:
- (1) Establish the development framework for the project, including the general location of open space, development areas, densities, unit types, recreational facilities, if any, and street alignments.
  - (2) Be the basis for the application to proceed with detailed planning and engineering in reliance on the approved preliminary site plan.
  - (3) Provide the benchmark for the Village to consider and approve amendments to the preliminary site plan when the Village determines that the amended plan is equal to or better than the approved preliminary site plan.
  - (4) Authorize the applicant to apply for all other required regulatory approvals for the project or subsequent phases thereof.
- (d) Final Site Plan. Prior to receiving a Zoning Certificate, the final site plan must be approved by the Planning and Zoning Commission according to the procedures in Chapter 1127, Site Plan Review Procedures. Such final site plan may be approved for a phase of the project, or the final plan may include the entire project.
- (1) Submission Requirements. In addition to the requirements in Chapter 1127 the final site plan shall include:
    - A. A site plan indicating:
      - i. Dimensions of building spacing including all lots and the maximum parameters, or building envelopes that indicate where buildings and accessory structures such as but not limited to decks and patios will be located, and shall demonstrate that such building location will be in compliance with the spacing requirements of this Chapter; and,
      - ii. Designated open space areas and a description of proposed open space improvements.

B. Conditions imposed by other regulatory agencies.

- (2) Review by the Village's Law Director. The Village's Law Director shall review the Declaration, Articles of Incorporation and Code of Regulations for a Homeowners' Association, and any other final covenants and restrictions and maintenance agreements to be imposed upon the Conservation Development. A written opinion shall be provided to the Planning and Zoning Commission verifying that the submitted documents demonstrate full compliance with the requirements for Owners' Associations in this Chapter and Chapter 1153, General Use Regulations.

### **SECTION 1143.23 SITE PLAN REVIEW CRITERIA.**

In addition to complying with the standards in this Chapter, the Architectural Board of Review and the Planning and Zoning Commission, as applicable, shall only approve a preliminary or final site plan when it is determined to be in compliance with the applicable criteria in Chapter 1127, Site Plan Review Procedures, and the following criteria:

- (a) Each phase of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability should remaining phases not be completed or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have beneficial effect which could not be achieved under standard district regulations.
- (b) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Zoning Code and the Zoning Map.
- (c) The development will be designed so that the area surrounding said development can be developed in coordination and substantial compatibility with the proposed development.
- (d) Maximum possible privacy for adjacent residential properties shall be provided through good design, the use of the building materials, and preservation of natural features and supplemental landscaping according to the requirements set forth in this Zoning Code.
- (e) Adequate provisions are made in the final covenants and restrictions to be imposed upon the development relating to the following:
  - (1) The use and development of accessory buildings and uses associated with individual dwellings.
  - (2) The maintenance of the land, including any common areas, private streets, and sidewalks.
- (f) On-site circulation shall be designed to provide for adequate fire and police protection, and safe and efficient pedestrian and vehicular circulation.

- (g) Adequate provision is made for storm drainage and sediment control in compliance with applicable Village provisions.
- (h) The proposed development complies with all other applicable provisions of this Zoning Code.

**CHAPTER 1145**  
**Building Zone Development District**

1145.01	Purpose and Application.	1145.09	Additional Procedures.
1145.03	Establishment of Planned Residential Development District.	1145.11	Submission Requirements.
		1145.13	Plan Approval Criteria.
1145.05	General Development Criteria.		
1145.07	Compliance with Existing Development Standards.		

**SECTION 1145.01 PURPOSE AND APPLICATION.**

- (a) Purpose. The Building Zone Development District (BZ) regulations are based on the premise that the ultimate quality of a built environment or development proposal is determined by the way in which such land uses are executed. In many cases, the subdivision regulations and standard zoning district regulations do not adequately regulate the location and density of dwellings that are appropriate in the Village of Waite Hill. The Building Zone Development District permits the formation of unique development standards, including greater residential density than would otherwise be permitted, that are appropriate for a given site in exchange for constructing all buildings in the building zones shown on the Zoning Map.
  - (1) The purposes of the Building Zone Development District regulations are to:
    - A. Allow the creation of development standards that respect the unique characteristics, natural quality and beauty of the site and the immediate vicinity and protect the community’s natural resources by avoiding development on, and destruction of, sensitive environmental areas.
    - B. Ensure that the development project is properly integrated into its surroundings and is compatible with adjacent development through appropriate development controls.
    - C. Establish objective criteria for plan review that ensures conformity to community standards.
  - (2) The review procedures for Building Zone Development Districts are designed to encourage:



- A. Unified development projects that exhibit creative planning and design in ways that cannot be achieved through a standard zoning district or subdivision regulation, yet are consistent with all of the Village's goals and are compatible with contiguous land uses and the intent of this Zoning Code.
  - B. Imaginative architectural design.
  - C. Flexibility in building types.
  - D. Proper relationships between buildings, between developments and between structures and the land.
  - E. The development of the land in an orderly, coordinated and comprehensive manner consistent with accepted land planning, landscape architecture practices and engineering principles according to approved site plans.
- (b) Application. The Building Zone Development District regulations assist in accomplishing these purposes by establishing review steps that combine the request for a zoning district change with the site plan review process, and when applicable, the subdivision process. Subsequent plan review following the zoning district change also requires simultaneous review of subdivision plats.
- (1) Each Building Zone Development District shall be considered a separate and unique zoning district wherein a preliminary site plan, including associated text depicting the specific development standards and development commitments, is adopted simultaneously with the adoption of the Building Zone Development District designation. The preliminary site plan shall apply only to the property within that particular Building Zone Development District.
  - (2) The preliminary site plan adopted at the time of rezoning to the Building Zone Development District shall be prepared in accordance with the provisions of this Chapter and the requirements contained herein.
- (c) Ownership. The Building Zone Development District shall be an integrated, unified development project and the entire project area shall be in single ownership or joint ownership and/or control at the time the application is made for the BZ designation so that all property owners are applicants throughout the site plan review process. Any transfer of land within the development after an application has been filed and/or approved shall not alter the applicability of the regulations contained herein. A preliminary site plan approved in accordance with these regulations for a Building Zone Development District shall be binding upon the owners, their successors and assigns and shall limit and control the issuance and validity of all certificates of zoning compliance.

**SECTION 1145.03 ESTABLISHMENT OF BUILDING ZONE DEVELOPMENT DISTRICT.**

A Building Zone Development District shall be established according to the following:

- (a) All rezonings to a Building Zone Development District shall be designated on the Zoning Map as BZD.
- (b) A request for rezoning land to a Building Zone Development District designation shall be made according to Chapter 1131, Amendments.
- (c) A preliminary site plan shall be reviewed according to the procedures in Chapter 1127, Site Plan Review Procedures, and a preliminary site plan and supporting documentation shall be adopted at the time of rezoning.
- (d) A final site plan shall be reviewed and acted upon according to in Chapter 1127, Site Plan Review Procedures.
- (e) A preliminary plat may be reviewed simultaneously with a preliminary site plan. A final plat shall be reviewed simultaneously with a final site plan, unless a final plat is not required for completion of the project. All subdivision plats shall be reviewed and approved pursuant to Title One of Part Eleven of the Village's Planning and Zoning Code, except as otherwise provided for in this Chapter.

#### **SECTION 1145.05 GENERAL DEVELOPMENT CRITERIA.**

A Building Zone Development shall be designed and depicted on the preliminary site plan and final site plan in accordance with the following General Development Criteria:

- (a) Permitted Locations. A Building Zone Development District shall only be considered in areas zoned R-10, Single-family Residence District.
- (b) Building Zones. Site construction (with the exception of access drives), in a Building Zone Development District, shall only occur in those areas designated as building zones on the Zoning Map.
- (c) Plan Design. The proposed Building Zone Development (BZD) shall be designed in accordance with accepted planning principles, including the planning and development principles included in this Chapter, to ensure that the building location, bulk, layout, arrangement, design, and height; the percentages of lot areas that may be occupied; the setback of buildings; the sizes of yards and other spaces; and the density of population are in compliance with the purposes and objectives of the BZ regulations as set forth in Section 1145.01 (a), Purpose.
- (d) Permitted Uses. A BZD shall only include one-family detached dwellings, cluster one-family detached dwelling, and uses accessory thereto.
- (e) Maximum Density. The maximum, permitted density shall not exceed one (1) dwelling unit per five (5) acres;
- (f) Planning and Development Principles. The proposed BZD shall be designed in accordance with the following planning and development regulations:

- (1) Land Use.
  - A. Buildings within the proposed development shall be located to protect and enhance the character of areas adjacent to the development;
  - B. Whenever a proposed development includes areas of a higher density than that permitted in adjacent areas, the location and arrangement of dwelling units shall include appropriate buffers, open spaces, setbacks, or other transitional areas to ensure compatibility with the lower density areas.
  - C. Buildings and structures shall be designed and located within the BZD in ways that conserve environmentally sensitive or unique natural, historic, or cultural features, and minimize environmental impacts.
- (2) Arrangement of Buildings, Yards and Setbacks.
  - A. The physical relationship of buildings and other site improvements to one another and the surrounding open space, as created by building size, mass, height, shape, and setback, shall result in a harmonious development within the BZD and adjacent to it.
  - B. The bulk and height of buildings within the proposed development shall be compatible with the surrounding development and sufficiently buffered from the surrounding development.
  - C. The setback of all buildings from the perimeter of the total tract or the project boundaries shall be a minimum of fifty (50) feet. This setback area shall be retained and maintained as landscaped open space free of streets, structures, and buildings. Streets shall be permitted to cross this setback area.
- (3) Landscaping, Screening and Buffering.
  - A. The pattern of landscaping shall be coordinated in design and type of materials, mounding and fencing used. Landscaping may vary in density, spacing and other treatments to reflect variations of topography, existing landscape or land uses.
  - B. Privacy for residential buildings shall be maintained through the use of landscaping, screening, and buffering.
  - C. Appropriate buffer zones with adequate landscaping shall be provided between the proposed development and adjacent areas.
  - D. Alternative design approaches to meet the intent of the landscape regulations may be incorporated.
- (4) Open Space. Adequate open spaces shall be integrated throughout the development. Such open space shall be located and designed as follows:
  - A. Open space shall be sufficiently aggregated to create large useable areas of planned open space.

- B. Open space shall conserve significant topographic, natural and historical features within the BZD to the extent practicable.
- C. Open space shall provide a scenic natural environment along existing public streets characterized by large building setbacks that enable the preservation of natural features.
- D. Where possible, open space areas shall be connected with open space areas on abutting parcels, and wherever possible, by open space corridors.
- E. Open space shall not be less than fifty (50) feet in width at any point, unless the Planning and Zoning Commission deems that a lesser width is appropriate, such as when connecting open space areas on adjacent parcels or creating scenic walking trails.
- F. All principal and accessory buildings shall be setback fifteen (15) feet from any designated open space.
- G. Land area devoted to the following shall not be included as meeting the open space requirement:
  - 1. Public rights-of-way;
  - 2. Access drives, common drives and driveways, except as otherwise permitted by the Planning and Zoning Commission when providing access to the open space;
  - 3. Required setbacks for buildings from the project boundaries; and,
  - 4. Private yards within subdivided lots.
- H. Open space shall be composed of the 100-year floodplain, wetlands (including woodlands with wetland soils), steep slopes, significant wildlife habitats, ridge lines, hilltops, windbreaks, stands of mature hardwood trees, woodlands, views into and out from the site, historic and archaeological features. The Flood Insurance Study shall be used to determine the 100-year floodplain. The Planning and Zoning Commission may grant an exception to this requirement based on the existing street network, topography, the proximity and nature of surrounding land uses, and similar factors.
- I. Open space may be used for outdoor, passive uses. Any open space intended to be devoted to such outdoor uses shall be of a usable size and shape for the intended purposes as determined by the Planning and Zoning Commission. Where deemed appropriate by the Planning and Zoning Commission, outdoor areas shall be provided with appropriate access.
- J. Open space shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village of Waite Hill Law Director and duly recorded in the Office of the Recorder of Deeds of Lake County. Such recording shall

take place before a construction permit, such as a building permit, of any kind is issued by the Village of Waite Hill.

(5) Protection of Natural Features.

- A. A riparian buffer of thirty-five (35) feet, as measured from the ordinary high water mark, shall be provided along the entire length and on both sides of a river or perennial stream channel. Walkways may be permitted to be located within riparian buffers when the Planning and Zoning Commission determines that such will create minimal change to the riparian buffer.
- B. The 100-year floodplain shall be protected.
- C. Wetlands that are to be retained in their natural state within the BZD shall be protected. A buffer area not less than thirty-five (35) feet in width measured from the edge of the delineated wetland shall be provided along the entire perimeter of the designated wetland. The buffer area shall not be disturbed and shall be retained in its natural state.
- D. A minimum building and pavement setback of fifty (50) feet, measured from the edge of the designated wetland, shall be required.

(6) Bike Paths and Other Trail Systems. Trail systems for bikes and other purposes may be included and shall be properly buffered from any adjacent residential areas if the trail is not located along or within the right-of-way of a public street.

(7) Street Design and Vehicular Circulation.

- A. The proposed vehicular circulation system in the BZD shall provide adequate connections to the existing street network.
- B. The area of the project devoted to streets and related pavement should be the minimum necessary to provide adequate and safe movement and access.
- C. Street alignments should be designed to conserve natural features and minimize the need for cut and fill practices.
- D. Private streets shall be permitted when approved by the Planning and Zoning Commission. Such private streets shall be designed and constructed in accordance with the requirements set forth in Section 1105.04, Required Improvements, except as otherwise permitted by the Planning and Zoning Commission.
- E. The design and construction of public streets shall be in accordance with the requirements set forth in Section 1105.04, Required Improvements.
- F. Utilities. The applicant shall provide and construct on-site and off-site water, sewage disposal, and other infrastructure improvements for the BZD in accordance with the requirements of Section 1105.04, Required

Improvements, and consistent with any agreements submitted as supporting documentation for the BZD.

- (g) Project Phasing. If the BZD is to be implemented in phases, each phase shall have adequate provision for access, storm water management, utilities, and other public improvements to serve the development in accordance with the applicable criteria set forth above. Each phase shall be provided with temporary and/or permanent transitional features, buffers, or protective areas in order to prevent any adverse impact on completed phases, future phases, and adjoining property. Open space areas shall be reasonably proportioned in each phase of the project, and the proposed construction of any recreation facilities shall be clearly identified on a phasing plan.
- (h) Common Facilities. The open space or common facilities established as part of a BZD shall be:
- (1) Dedicated to a homeowners association or similar legal entity that shall have title to the land to be retained as open space;
  - (2) Give to a land trust or other conservation organization recognized by the Village; or,
  - (3) Offered to the Village for public open space. The Village shall have the right to not accept any land area offered to the Village. In the event of such refusal, the conditions of (1) or (2) above, shall apply. Any land area that is accepted by the Village for dedication as public open space shall also continue to be counted toward the requirement for open space.

Homeowners associations or similar legal entities that are responsible for the maintenance and control of common areas including recreational facilities, open space, private streets, and buffer areas, shall be established in such a manner that complies with Section 1153.03, Requirements for Owners Associations.

**SECTION 1145.07 COMPLIANCE WITH EXISTING DEVELOPMENT STANDARDS.**

- (a) Because of the special characteristics related to a BZD, specific provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Chapter and those of other Chapters of this Zoning Code, the provisions set forth in this Chapter shall govern. Any existing provisions that are not covered by this Chapter shall be governed by the respective provisions and requirements found elsewhere in this Zoning Code, unless modified by the development standards text.
- (b) Requirements and guidelines that are necessary to ensure that the proposed BZD complies with the intent of these Building Zone Development District regulations shall be clearly delineated in the development standards text and submitted as part of the preliminary site plan. Elements of the development standards text shall include:

- (1) The maximum density;
- (2) Standards for the protection of natural features;
- (3) The major vehicular, pedestrian and bike circulation system, when applicable;
- (4) Setbacks and buffer standards for the perimeter of the BZD district;
- (5) Any unique development standards or other standards that are determined essential for the project; and,
- (6) All other provisions that set forth the methods for complying with the General Development Criteria set forth in Section 1145.05.

### **SECTION 1145.09 ADDITIONAL PROCEDURES.**

This Section provides miscellaneous provisions regarding the review and approval of Building Zone Developments.

- (a) Significance of Approved Preliminary Site Plan. Approval or approval with conditions of the preliminary site plan by the Village Council shall:
  - (1) Establish the development framework for the project, including, but not limited to, the general location of open space, use areas, densities, unit types, recreational facilities, and street alignments;
  - (2) Permit the applicant to proceed with detailed planning of the final site plan; and,
  - (3) Authorize the applicant to apply for all other required regulatory approvals for the project or subsequent phases thereof.
- (b) Expiration of Zoning Approval & Cessation of an Approved Project. Given the nature of the Building Zone Development District process and the unique standards simultaneously adopted, the Building Zone Development District designation shall remain valid for one (1) year from the date of Village Council approval. During that time, the applicant shall prepare and submit a final site plan for review.

In the event progress on the BZD is discontinued, an applicant may develop the subject site in conformance with the regulations in Chapter 1141, Single-family Residence District or Chapter 1143, Conservation Development Regulations as well as amend an approved Building Zone Development as provided for in sub-section 1145.09 (d).

- (1) For the purpose of this Section, progress shall be considered discontinued when:
  - A. The final site plan for the BZD, or for the first phase of the BZD, is not submitted within one (1) year after approval by Village Council of the preliminary site plan; or

- B. The final site plan for the BZD, or for the latest phase of the BZD, is approved, but construction authorized by such final site plan is not begun within one (1) year after approval of the final site plan; or
  - C. A final site plan for the BZD is approved, and construction work is discontinued for a period of one (1) year or for a longer period as may be agreed to as part of the BZD zoning amendment.
- (2) At any time, the Planning and Zoning Commission may grant an extension to the above stated timeframes for good cause shown.
- (c) Zoning and Building Permits. Following the approval of the final site plan, and recording of the final subdivision plat if applicable, the applicant may proceed with the zoning certificate and building permit process, consistent with approval as granted.
- (1) After approval of the final site plan, the applicant shall obtain a zoning certificate and a building permit prior to construction.
  - (2) All construction and development under any building permit shall be in accordance with the approved final site plan, except as may be permitted in Section 1145.09 (d), Modifications to Approved Final Site Plans. Any unauthorized departure from such plan shall be cause for revocation of the zoning certificate or the certificate of zoning compliance, as applicable. All required covenants, easements and restrictions shall be recorded prior to the approval of any construction permit in a location where such covenants, easements, or restrictions are intended to apply. The Village shall require a copy of the recorded document prior to Lake County issuing any construction permit.
- (d) Modifications to Approved Final Site Plans. Requested modifications to approved final site plans shall be reviewed according to the following:
- (1) Administrative Approval. The Zoning Administrator, in administering the approved final site plan, may authorize minor design modifications that are required to correct any undetected errors or that are consistent with the purpose of the approved final site plan.
    - A. Such modifications shall not allow increases in the density of development.
    - B. Such modifications shall be limited to:
      - 1. Minor adjustments in lot lines provided no additional lots are created;
      - 2. Minor adjustments in location of building and structure footprints provided the perimeter setbacks, yards and buffers remain in compliance;
      - 3. Minor adjustments in building height(s);
      - 4. Substitution of landscaping materials;
      - 5. Redesigning and/or relocating stormwater management facilities;



6. Redesigning and/or relocating mounds; and,
  7. Minor changes in building material that are similar to and have the same general appearance as the material approved on the final site plan.
- C. The Zoning Administrator shall report any approved modification to the Planning and Zoning Commission.
- (2) Board of Zoning Appeals Approval. Any request for a variation to the development standards text that pertains to an individual one-family detached dwelling on an individual subdivided lot shall be reviewed as a variance according to the regulations set forth in Chapter 1133, Appeals and Variances.
- (3) Planning and Zoning Commission.
- A. Modifications other than those listed in (1) and (2) above, which do not require changes to the approved preliminary site plan, shall be submitted to the Planning and Zoning Commission in accordance with the review procedures for final site plan review set forth in Chapter 1127. If it is determined that the modifications are compatible with the surrounding development and consistent with the approved preliminary site plan, the Planning and Zoning Commission may approve such change.
  - B. Modifications other than those listed in (1) and (2) above, which do require changes to the approved preliminary site plan, shall be submitted and reviewed in accordance with the review procedures for a zoning amendment and site plan review as set forth in Section 1145.03, Establishment of Building Zone Development District.

## **SECTION 1145.11 SUBMISSION REQUIREMENTS.**

- (a) Contents of Preliminary Site Plan Application. The applicant shall submit a Preliminary Site Plan application to the Zoning Administrator. The application shall include documentation illustrating compliance with the standards and criteria set forth in this Chapter. The application and documentation shall include the submission requirements in Chapter 1127, the information required by sub-section 1143.21 (b), and the Development Standards Text. The development standards text identifies all of the requirements that are to govern the design and layout of the BZD as provided for in 1145.07 (b).
- (b) Contents of Final Site Plan Application. The applicant shall submit a Final Site Plan application to the Zoning Administrator. The application shall include documentation illustrating compliance with the standards and criteria set forth in this Chapter. The application and documentation shall include the submission requirements in Chapter 1127, the information required by sub-section 1143.21 (d) (1), and the Development Standards Text. The development standards text identifies all of the requirements that are to govern the design and layout of the BZD as provided for in 1145.07 (b).

**SECTION 1145.13 PLAN APPROVAL CRITERIA**

In addition to complying with the standards in this Chapter, the Architectural Board of Review, the Planning and Zoning Commission, and the Village Council, as applicable, shall only approve a preliminary or final site plan when it is determined to be in compliance with the applicable criteria in Chapter 1127, Site Plan Review Procedures, and the criteria in Section 1143.23, Site Plan Review Criteria.

**CHAPTER 1149**  
**Open Space Natural Area Preservation District Regulations**

1149.01	Intent.	1149.09	Accessory Uses & Structures.
1149.03	Use Regulations.	1149.11	Performance Standards.
1149.05	Development Requirements.	1149.13	Plan Review.
1149.07	Height Regulations.		

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**SECTION 1149.01 INTENT.**

The Open Space Natural Area Preservation District (OS) and the regulations in this Chapter are established in order to achieve, among others, the following purposes:

- (a) To conserve the natural resources in the Village, including but not limited to underground water supply, woods, lakes, streams, shrubs and trees, and to prevent pollution of water, waste of land, and to provide the benefits resulting from having open areas preserved in their natural or near natural state; and,
- (b) To promote the public health, safety and general welfare of the community by protecting and preserving open space as a limited and valuable resource which protects scenic vistas and contributes to the overall quality of life in the Village of Waite Hill.

**SECTION 1149.03 USE REGULATIONS.**

- (f) Uses Permitted By Right. A use listed in Schedule 1149.03 shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other Village ordinances and this Zoning Code have been met;
- (g) Accessory Uses. An accessory use that is clearly incidental and subordinate to a use listed in Schedule 1149.03 shall be permitted provided that the requirements of all other Village ordinances and this Zoning Code have been met.
- (h) Compliance with Standards. Although a use may be indicated as a permitted principal or accessory use in a particular district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Code applicable to the specific use and parcel in question.
- (i) Use Not Listed in Schedule. Any use not specifically listed as a permitted principal use shall be a prohibited use in this zoning district and shall only be permitted upon amendment of this Code and/or the Zoning Map as provided in Chapter 1131.

(j) Schedule 1149.03 Permitted Uses.

<b>Schedule 1149.03 Permitted Uses<sup>(a)</sup></b>	
	<b>OS</b>
	<b>Open Space Natural Area Preservation District</b>
<b>(5) Permitted Uses</b>	
A. Natural Resource Preserve	P
<b>(6) Accessory Uses</b>	
A. Fences, walls	A
B. Other accessory structures <sup>(b)</sup>	A
C. Parking	A
D. Signs	A
<p><u>Notes to Schedule 1149.03:</u></p> <p><sup>(a)</sup> There shall be no retail sales or commercial recreation in the Open Space Natural Area Preservation District.</p> <p><sup>(b)</sup> Other accessory structure may include, but shall not be limited to, informational kiosks, picnic facilities, etc.</p> <p>P = Principal Use permitted by right; A = Accessory use;</p>	

**SECTION 1149.05 DEVELOPMENT REQUIREMENTS.**

- (d) Maximum Lot Coverage. The maximum lot coverage shall not exceed one percent (1%).
- (e) Setback Requirements. All structures, except off-street parking, shall be located on a lot in a manner that maintains the required setback from a right-of-way as well as the required side and rear setbacks set forth in Schedule 1149.05, measured from the appropriate lot line. The area within the setbacks shall remain unobstructed by structures, except as otherwise permitted in this Code.
- (f) Parking Requirements. The number of required off-street parking spaces for Natural Resource Preserves shall be two (2) parking spaces per each five acres of land area or part thereof, but no more than a maximum of twenty (20) parking spaces shall be provided. Such parking spaces shall be constructed in accordance with the applicable requirements in Chapter 1151, Off-street Parking Regulations.

- (g) Schedule 1149.05 Minimum Setback Requirements:

<b>Schedule 1149.05 Minimum Setbacks for Accessory Structures<sup>(a)</sup></b>	
	<b>OS Open Space Natural Area Preservation District</b>
<b>(1) Minimum Setback from Street Right-of-Way</b>	200 feet
<b>(2) Setback from Side &amp; Rear Lot line</b>	150 feet
<sup>(a)</sup> The Planning and Zoning Commission may grant an exception to these setback requirements based upon the structure proposed, its anticipated impacts, the location of existing natural features, and the adjacency to residentially zoned parcels.	

**SECTION 1149.07 HEIGHT REQUIREMENTS.**

All accessory buildings and structures shall comply with the following height regulations:

- (d) The height of accessory structures shall not exceed twelve (12) feet.
- (e) During the site plan review process, an applicant may request that the Planning and Zoning Commission consider an exception to the height requirement. Such an exception shall not be granted unless findings are made that the increased height will not adversely harm adjacent properties and the character of the surrounding area due to the setback of the proposed structure/building, the topography of the applicant’s site or surrounding properties, or similar criteria.

**SECTION 1149.09 ACCESSORY USES AND STRUCTURES.**

Accessory uses and structures permitted in the OS District shall conform to the regulations contained in this Section and this Chapter.

- (k) Location Requirements for Accessory Uses. All accessory structures permitted in the OS District shall be located as set forth in Schedule 1149.05, Minimum Setbacks. However, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in this Zoning Code.
- (l) Minimum Parking Setbacks. Off-street parking shall be located to minimize any negative impacts on the public right-of-way and adjacent residential property as determined by the Planning and Zoning Commission based upon the proposed

placement and screening of the parking, the location of existing natural features, and the adjacency to residentially zoned parcels.

- (m) Fences and Walls. Fences and wall shall comply with the regulations in sub-section 1141.15 (g).
- (n) Signs. Signs, which are not visible from public rights-of-way, are permitted, after approval from the Zoning Administrator, provided such signs shall not exceed six (6) square feet. Other signs shall be permitted only after site plans have been reviewed and approved according to the procedures set forth in Chapter 1127, Site Plan Review Procedures.

#### **SECTION 1149.11 PERFORMANCE STANDARDS.**

All uses shall comply with the following performance standards:

- (a) Lighting. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall be such that light shall not trespass onto adjacent residential property.
- (b) Outdoor Storage. Outdoor storage is prohibited.
- (c) Landscaping and Screening. If structures are proposed adjacent to any residential zoning district boundary line, the Planning and Zoning Commission may require additional landscaping and/or fencing to screen such uses from adjacent residential property.

#### **SECTION 1149.13 PLAN REVIEW.**

All uses in the OS District shall be permitted only after site plans have been reviewed and approved according to the procedures set forth in Chapter 1127, Site Plan Review Procedures.

**CHAPTER 1151**  
**Off-Street Parking Regulations**

1151.01	Intent.	1151.11	Location of Required Parking Spaces.
1151.03	Parking Facilities Required.	1151.13	Construction, Use, Improvement & Maintenance Standards.
1151.05	Units of Measure.	1151.15	Zoning Certificate and Site Plan Required
1151.07	Off-street Parking Standards.		
1151.09	Parking Spaces for Persons with Disabilities.		

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**SECTION 1151.01 INTENT.**

Off-street parking regulations are established in order to achieve, among other things, the following purposes:

- (a) To protect adjoining residential property from parking associated with community facilities and institutions;
- (b) To provide regulations and standards for the development of accessory off-street parking spaces; and,
- (c) To provide for the accommodation of vehicles in a functionally and aesthetically satisfactory manner and to minimize external effects on adjacent land uses.

**SECTION 1151.03 PARKING FACILITIES REQUIRED.**

Accessory, off-street parking spaces, including driveways, shall be provided prior to the occupancy of a building or use. Parking facilities shall be provided for the entire building or use in accordance with the regulations contained in this Chapter whenever a building is constructed or altered to require additional parking or a new use is established.

**SECTION 1151.05 UNITS OF MEASURE.**

In computing the number of off-street parking spaces required by this Code, the following rules shall apply:

- (a) Floor Area. Where floor area is designated as the standard for determining off-street parking space requirements, gross floor area shall be used for all land uses, unless specifically noted otherwise.
- (b) Seats. Where seating capacity is the standard for determining off-street parking spaces, the capacity shall mean the number of seating units installed or indicated, or one seat for each 24 lineal inches of benches or pews, or when fixed seats are not

indicated, the capacity shall be determined as being one seat for each 20 square feet of gross floor area of the assembly room(s).

- (c) Fractional Numbers. Where the computation results in a fractional unit, one additional off-street parking space shall be provided.

**SECTION 1151.07 OFF-STREET PARKING STANDARDS.**

The number of off-street parking spaces for each facility, establishment, or use shall be determined by application of the standards noted in Schedule **1151.07**.

**Schedule 1151.07  
Required Off-Street Parking Spaces**

<u>Principal Building or Use</u>	<u>Minimum Parking Requirement</u> <sup>(a) (b)</sup>
<b>(a) Residential:</b>	
(1) One-family dwelling, detached	2 per dwelling unit, at least 1 enclosed
(2) Cluster one-family detached dwelling	2 per dwelling unit, at least 1 enclosed
<b>(b) Community Facilities/ Institutions</b>	
(1) Cemetery <sup>(c)</sup>	To be determined by the Planning and Zoning Commission
(2) Civic center	1 space for every 6 seats in the portion of the building to be used for assembly use plus any other use requirements such as but not limited to a park facility and/or a library
(3) Library	3 spaces per 1,000 square feet of floor area
(4) Place of worship/church	1 space for every 6 seats in the portion of the building to be used for assembly use
(5) Public safety facility	1 space per 200 square feet of floor area
(6) Public service facility <sup>(c)</sup>	To be determined by the Planning and Zoning Commission
<b>Notes to Schedule 1151.07:</b>	
(a)	A minimum of five (5) spaces is required for each facility other than one-family detached dwellings or cluster one-family detached dwellings.
(b)	For specific buildings or uses not scheduled above, the Planning and Zoning Commission shall apply the unit of measurement set forth in the above schedule which is deemed to be most similar to the proposed use.
(c)	Specific requirements shall be based on requirements for similar uses, location of proposed use, surrounding land uses, expected demand and traffic generated by



<u>Principal Building or Use</u>	<u>Minimum Parking Requirement</u> <sup>(a) (b)</sup>
the proposed use, and appropriate traffic engineering and planning criteria and information.	

**SECTION 1151.09 PARKING SPACES FOR PERSONS WITH DISABILITIES.**

In accordance with the Americans with Disabilities Act (ADA) of 1990, all new construction and alterations to places of public accommodation shall provide off-street parking spaces that are designed and constructed to be readily accessible to persons with disabilities.

**SECTION 1151.11 LOCATION OF REQUIRED PARKING SPACES.**

In addition to specific requirements contained in each district regulation, the location of off-street parking facilities shall further be regulated according to the following provisions:

- (a) **Parking for Dwelling Units.** Off-street parking spaces required for dwelling units shall be located on the same zoning lot as the dwelling unit served.
- (b) **Parking in Designated Areas Only.** Any vehicle customarily or seasonally parked on any lot shall be so parked only in parking facilities or areas specifically constructed for such purposes and shall not be parked on lawns or other landscaped areas, unless otherwise approved by the Waite Hill Police Department.
- (c) **Areas Computed as Parking Spaces.** Areas that may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or driveway, except for one-family detached or a cluster one-family detached dwellings where a driveway in the front or side yard shall be permitted to compute as eligible parking space(s) up to a maximum of one (1) parking spaces per dwelling unit.

**SECTION 1151.13 CONSTRUCTION, USE, IMPROVEMENT, AND MAINTENANCE STANDARDS.**

All driveways and parking facilities shall be constructed in accordance with standards established by the Village Engineer and the following:

- (a) **Grading and Pavement.** Parking facilities and access driveways shall be so graded and drained so as to dispose of all surface water and drainage so that such surface water and drainage shall not be allowed to flow onto adjacent properties including the right-of-way or remain standing in said driveways or parking facilities. All parking facilities and driveways improved or constructed shall be bituminous or Portland cement pavement, pavers, embossed concrete, gravel, porous pavement, Grasscrete (or other pervious paving system), or another approved pavement material in accordance with standards established by the Village and approved by the Village

Engineer and the Planning and Zoning Commission. All gravel or other non-paved parking facilities and driveways shall be maintained so as not to create a hazard. Gravel or other driveway material shall not collect on driveway aprons or the public right of way.

- (b) Illumination in Parking Facilities. All lighting used to illuminate such parking facilities shall be so arranged as to direct the light away from adjoining properties or streets, and no open light sources such as the stringing of light bulbs shall be permitted.
- (c) Marking. Any off-street parking facility for five (5) or more off-street parking spaces shall indicate the location of each parking space, the location of spaces for persons with disabilities, and the location and direction or movement along the aisles and access drives providing access thereto by painting upon the surface, by raised directional signs, or by markers or other similar measures placed in the surface.
- (d) Maintenance. All parking facilities shall be maintained in a manner to keep it as free as practicable from rubbish, paper and other loose particles, and snow and ice shall be promptly removed. All signs, markers or any other methods used to indicate direction of traffic movement and location of off-street parking spaces shall be maintained in a neat and legible condition. Any walls, trees and shrubbery, as well as surfacing of the parking lot, shall be maintained in good condition throughout its use for parking purposes. It shall be the responsibility of the property owner to maintain and repair parking lots as may be necessary, in the opinion of the Village, so as to provide a dustless surface in good condition, properly drained, and free of obstructions and nuisances in accordance with the requirements of this Chapter.

#### **SECTION 1151.15 ZONING CERTIFICATE AND SITE PLAN REQUIRED.**

All facilities governed by the regulations in this Chapter shall comply with the following approval process.

- (a) Plans showing the features of off-street parking spaces shall be submitted to the Zoning Administrator for site plan review as required by Chapter 1127, Site Plan Review Procedures.
- (b) Village Engineer. The Village Engineer shall review and approve all requests for access to public rights-of-way prior to construction. All improvements, curb cuts, and approaches in the public right-of-way shall be constructed pursuant to all applicable Village regulations.

**CHAPTER 1153**  
**General Use Regulations**

1153.01	Lot Regulations.	1153.05	Performance Standards.
1153.03	Requirements for Owners Associations.	1153.07	Cutting of Trees.

**SECTION 1153.01 LOT REGULATIONS.**

- (a) Lot Separation; Usage Requires Compliance.
- (1) No portion of a lot necessary to maintain and provide the required total area, minimum width, side, front or rear setbacks, or to provide the density of dwelling units in accordance with the schedules or regulations made a part hereof shall be separated in ownership or used except as herein provided, nor shall any part of such areas be considered for any other building or use.
- (2) Where such areas are or will be after completion of a site plan or subdivision of lands, fronting on any public street, road or highway, such shall be computed from the side of such street, road or highway, and shall exclude all area used for ingress and egress to or from any other lot or parcel of land.
- (b) Adequate Access. All lots shall have adequate access to a public right-of-way either by fee ownership of sufficient property which abuts a public right of way to provide adequate access, or via an easement from the public right of way to the lot which shall permit access for public safety and service vehicles and be in a form which is acceptable to the Village's Law Director.
- (c) Required Lot Area to be Maintained. A parcel of land may be subdivided into two or more parcels, provided all lots resulting from such division shall conform to all the lot area and width regulations of the district in which it is located. A lot of record that conformed to the provisions of this Code or any amendments thereto shall not be reduced in any manner that would make it nonconforming.
- (d) One Dwelling on Lot. No one-family detached dwelling shall be constructed on a lot upon which a principal building already exists, except in accordance with Chapter 1143, Conservation Development Regulations or Chapter 1145, Building Zoning Development District.

**SECTION 1153.03 REQUIREMENTS FOR OWNERS ASSOCIATIONS.**

As part of a development where a homeowners association, community association, condominium association or similar legal entity/agency shall be created to be responsible for the maintenance and control of common areas, including the required open space, open space easements, private streets, facilities, common drives, etc., the Village's Law Director shall determine that, based on documents submitted with the site plan, the association's or agency's bylaws or code of regulations specify the following requirements:

- (a) Membership in the Association shall be mandatory for all purchasers and/or owners of lots in the development or units in a condominium;
- (b) The Association shall be responsible for maintenance, control, and insurance of open space and all common areas, including any applicable easements;
- (c) The Association shall have the power to impose assessments on members for the maintenance, control and insurance of open space and common areas, and have the power to place liens against individual properties for failure to pay assessments;
- (d) The conditions and timing of transfer of control from the developer to the unit or lot owners shall be specified;
- (e) The Association shall not authorize its dissolution or the sale, transfer or other disposal of any common area, including required open space, without (i) an affirmative vote of seventy-five (75) percent of its members, (ii) having established a successor entity to take over said property pursuant to the Village's Zoning Code; and (iii) the approval of the Village Council.
- (f) The Association shall convey to the Village and other appropriate governmental bodies, after proper notice, the right to enter to any common area for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety, and welfare. Such governments shall have the right, after proper notice, to make improvements and perform maintenance functions. In addition, the Village shall have the right to proceed against the Association for reimbursements of said costs, including the right to file liens against individual condominium units, houses, dwelling, and vacant building lots.
- (g) A certified copy of all covenants and restrictions, as filed with the Lake County Recorder's Office, shall be submitted to the Zoning Administrator.

#### **SECTION 1153.05 PERFORMANCE STANDARDS.**

No land, building, or structure in any zoning district shall be used or occupied in any manner to create a dangerous or objectionable condition, substance or element, in such a manner or in such amount to adversely affect the adjoining premises or surrounding area.

#### **SECTION 1153.07 CUTTING OF TREES.**

- (a) Definitions.

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- (1) As used in this Section, “timbering, selective cutting or commercial cutting” means the cutting of trees having a trunk caliper of not less than six (6) inches, measured at the diameter-at-breast-height.
  - (2) Clear cutting, as used in this Section, means a system of tree harvesting that removes all the trees in a given area.
- (b) Approval Required. There shall be no clear-cutting, timbering, selective cutting, or commercial cutting of trees on any piece or parcel of land located within the Village, unless an application for such has been approved by the Zoning Administrator.
  - (c) Clear Cutting. Clear-cutting is prohibited, except to the extent necessary to clear a building site, yard, driveway and right-of-way providing access to the site from a public street, after approval has been given by the Zoning Administrator.
  - (d) Selective Cutting. Selective cutting of timber shall be permitted under the following conditions, upon application to the Zoning Administrator:
    - (1) The Zoning Administrator, an arborist selected by the Village and the owner or his or her representative shall together inspect the wooded area to be selectively cut, to butt brand and paint stripe the specific trees to be cut.
    - (2) Only trees so branded and marked shall be cut. Each unauthorized cutting of an unmarked tree shall constitute a separate violation of this Zoning Code and shall constitute grounds for the immediate revocation of the approval to cut trees and/or any other permit issued.
  - (e) Applications. An application required by this Section shall be in writing and shall set forth in full the name and address of each owner of the premises upon which it is proposed to engage in the cutting of trees; the name and address of each person who shall engage in the cutting of trees on such premises, either under contract or any other arrangement with the owner; a copy of the contract covering such arrangement for the cutting of trees, or if there is no such contract reduced to writing, a succinct statement of the terms and provisions of such arrangement; and a legal description of the premises upon which such cutting of trees is proposed, or in lieu thereof a description of such premises which will adequately describe them so that they may be located on the plat map of the Village.
  - (f) Conditions of Approval; Performance Guarantee. The conditions under which applications shall be approved under this Section are as follows:

- (1) Approval of an application for the cutting of trees shall not be given by the Zoning Administrator in any case where such cutting of trees would result in interference with the natural water supply of the Village or any of the lots or lands therein, or if it would result in the undue erosion of the soil on such lots or lands.
- (2) Approval of an application for the cutting of trees shall not be given by the Zoning Administrator unless and until adequate assurance is furnished by the applicant that if such approval is given and such cutting of trees is done, all of the cordwood, branches, brush, rubble and refuse resulting therefrom will be removed from the premises or cut up, chipped and placed on the forest floor in such a way that no fire hazard shall result therefrom.
- (3) The Zoning Administrator is authorized to require the filing with the Village by the applicant of a performance guarantee, the penal sum of which shall be in an amount which the Zoning Administrator reasonably estimates will be sufficient to pay the cost and expense of the clean-up operation.
- (4) The performance guarantee hereinabove provided for shall be signed by the owner of the premises concerned and by each of the persons with whom arrangements have been made for the cutting of the trees under contract or otherwise as principals, and by such sureties as the Zoning Administrator shall deem sufficient.