

PUBLIC NOTICE
Proposed Zoning Ordinance Revision
Village Council Public Hearing

Village Council will hold a public hearing on April 14, 2020 at 6:00 pm at the Town Hall prior to the regular Council meeting to receive any comments on revisions being proposed by the Planning Commission to the Village Zoning Ordinance. Testimony can be provided at the Hearing or written comments can be mailed to the village at the address given below. The proposed revisions are summarized below. Copies of the revised pages are posted at the Post office and Town Hall. The complete zoning ordinance and the proposed revisions are also available at <zoarohio.com>.

Summary of revisions to Zoning Ordinance 2018-11:

WHEREAS, since enactment of Zoning Ordinance 2018-11, additional revisions were necessary in order to clarify and facilitate the zoning requirements. The following changes were recommended to Council by the Planning Commission:

1. Page 6, Section II (Definitions); the definitions of "Bed and Breakfast Inn" was modified to allow a resident to use part of their house for a Bed and Breakfast, but must also live there;
2. Page 7, Section II (Definition of Dwelling); delete the term "boarding and lodging houses";
3. Page 8, Section II (Definitions); the definition of "Hotel" was clarified to emphasize short term lodging and where there is a manager on duty to host and monitor guests.
4. Page 22, Section IV; Commercial Land Use District, delete item 2.k) "Lodging Houses".
5. Page 30, Section VIII (Nuisances), item 30; the failure to maintain trees was added;
6. Page 36, Section X (Permits and Approvals), item A; includes approval by the PC;
7. Page 37, Section X, (Permits and Approvals), item D; permit extensions require PC approval;
8. Page 39, Section XI; one PC member can be from outside the village;
9. Page 40, Section XI; clarifies the appeal process to Village Council;
10. Page 48, Appendix A, Section 1, item G (Swimming Pools); allows alternative options to meet required pool safety standards.

NOW THEREFORE, be it ordained by the Village Council of Zoar, Ohio that the revised Zoning Regulations shall be enacted by Ordinance 2020-05, and that Ordinance 2018-11 shall be repealed.

Zoning Ordinance
Village of Zoar
PO Box 544
Zoar, OH 44697

Posted 3-11-20

Proposed Revisions to:

Zoning Ordinance – 2018-11

Village of Zoar, Ohio

Effective date: _____

WHEREAS, since enactment of Zoning Ordinance 2018-11, additional revisions were necessary in order to clarify and facilitate the zoning requirements. The following changes were recommended to Council by the Planning Commission:

1. Page 6, Section II (Definitions); the definitions of “Bed and Breakfast Inn” was modified to allow a resident to use part of their house for a Bed and Breakfast, but must also live there;
2. Page 7, Section II (Definition of Dwelling); delete the term “boarding and lodging houses”;
3. Page 8, Section II (Definitions); the definition of “Hotel” was clarified to emphasize short term lodging and where there is a manager on duty to host and monitor guests.
4. Page 22, Section IV; Commercial Land Use District, delete item 2.k) “Lodging Houses”.
5. Page 30, Section VIII (Nuisances), item 30; the failure to maintain trees was added;
6. Page 36, Section X (Permits and Approvals), item A; includes approval by the PC;
7. Page 37, Section X, (Permits and Approvals), item D; permit extensions require PC approval;
8. Page 39, Section XI; one PC member can be from outside the village;
9. Page 40, Section XI; clarifies the appeal process to Village Council;
10. Page 48, Appendix A, Section 1, item G (Swimming Pools); allows alternative options to meet required pool safety standards.

NOW THEREFORE, be it ordained by the Village Council of Zoar, Ohio that the Zoning Regulations shall be enacted by Ordinance 2020-05, and that Ordinance 2018-11 shall be repealed.

Basement: A story partly or wholly underground. Where more than one-half of its height is above the average level of the adjoining ground, a basement shall be counted as a story for purpose of height measurement.

Basic Foundation: That portion of the foundation of the Main Building which underlies the rectangular main area of the building, without regard to "L" shaped extensions, small additions or porches.

Bed and Breakfast Inn: An establishment operated in a portion of a dwelling unit, ~~or portion thereof,~~ that provides short-term lodging, with or without the service of a morning meal, for compensation and where the operator lives ~~on the premises~~ in the dwelling and is present therein to host and monitor such lodgers during their stay.

Building: Any construction consisting of a foundation, walls, columns, girders, beams, floors, roofs, or any combination of any number of such parts.

Building Frontage: The linear width of a building facing the right-of-way, or the linear length of the right-of-way facing the building; whichever is smaller.

Building Height: The vertical distances measured from the sidewalk level or its equivalent established grade, opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

Building Line: For the purpose of this ordinance the building line is the same as a front yard setback line.

Cellar: A space having less than one-half of its floor-to-ceiling height above the average level of the adjoining ground or a floor-to-ceiling height of less than six and one-half feet. *See Basement.*

Conditional Use Permit: shall mean the official document issued by the Zoning Board approving the use of land and/or buildings not specifically permitted in any of the zoning districts as defined in these *Regulations.*

Day care center: A building or structure where care, protection, and supervision are provided for individuals on a regular basis away from their primary residence for less than 24 hours a day, with or without compensation and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day-care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, and centers for mentally retarded children, but specifically excludes any family day care home or group home as defined in these *Regulations.*

Developer: Any individual, subdivider, firm, association, partnership, corporation, trust, or any other legal entity commencing proceedings under these *Regulations* to effect subdivision or development of land hereunder for himself or for another.

District: A section or sections of the incorporated area of the Village for which the regulations and provisions governing the use of buildings and land are uniform for each class of use permitted therein.

Driveway: shall mean a private roadway providing access to a street or highway.

Dwelling: A building or portion thereof designed exclusively for residential occupancy (*see Dwelling Unit*), including one-family and multiple dwellings, but not including mobile homes and hotels. ~~and boarding and lodging houses.~~

Dwelling, one-family: A main building designed exclusively for occupancy by one family (*see Dwelling Unit*), but not including a mobile home.

Dwelling, multiple: A main building or portion thereof designed for occupancy by two or more families living independently of each other (*see Dwelling Unit*), but not including a mobile home or hotel.

Dwelling unit: Space within a building comprising living, dining, and sleeping room or rooms, storage and closets, as well as space and functional equipment for heating, cooking, bathing and toilet facilities, all used by only one (1) family and its household employees.

Easement: Authorization by a property owner for the use by another and for a specified purpose, of any designated part of owner's property.

Family: An individual, two or more persons related by blood or marriage, or group of not more than three persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

Fence: shall mean an artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Frontage: The length of the property line of any one premises parallel to and along each public right-of-way it borders.

Fulltime Resident: A new resident for the first year, and any resident who resides in a dwelling within the Village during at least 183 days of a calendar year; and is a registered voter in the Village of Zoar. These requirements shall not apply in the case of extended travel, or where there are other jurisdictional requirements, such as occupational, which may conflict with these requirements.

Garage, private, attached: A building for the storage of vehicles which shares a common wall with, and is used in connection with, a main building.

Garage, private, unattached: An accessory building for storage of vehicles that does not share a common wall with the main building on the lot or acreage.

Garage, public: A building other than a private garage, used for the care, repair, or equipment of automobiles, of where such vehicles are parked or stored for remuneration, hire or sale within the structure.

Grade: The vertical alignment of a surface of land as it exists or as rendered by cut and/or fill activities.

Grade, finished: The final elevation of the ground level after topsoil has been applied to graded slopes, as measured six (6) feet from the exterior walls of the structure.

Grade, natural: The elevation of the undisturbed natural surface of the ground prior to any excavation or fill.

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.

Group home: A residence operated as a multiple dwelling, licensed by or operated by a governmental agency, for the purpose of providing special care or rehabilitation due to homelessness, physical condition or illness, mental condition or illness, elderly age, or social, behavioral or disciplinary problems, provided that authorized supervisory personnel are present on the premises.

Group home, transitional: A group home serving persons who are in the process of transitioning or returning from an institutional remedial setting to independent living.

Home Occupation: A business use conducted within a dwelling and/or accessory building carried on only by full time residents thereof, which use is incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation that involves no direct physical customer contact and has no pick-up or deliveries, and is imperceptible from off the premises, is not considered a home occupation under these *Regulations*.

Hotel: A building other than a dwelling, with guest rooms where daily short term temporary lodging is provided for compensation, regardless of whether meals are provided or available on the premises, but not including those establishments defined as a *Bed and Breakfast*; and where the owner, operator, or agent acts as a manager on duty to host and monitor guests.

Household: A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and of all areas and facilities for the preparation and serving of food within the dwelling unit. *See Family.*

Junk Motor Vehicle: (1) any motor vehicle which is partially dismantled or wrecked, or which apparently cannot be operated on public roadways safely or legally and has remained in such condition for a period of at least 30 days, or (2) any motor vehicle which has not been operated for a period exceeding six months, unless such motor vehicle is a motor-home or motorized camper used for recreational purposes only and stored on the premises during periods between uses, so long as such vehicles are not described by (1) above.

Kennel: Any premises on which four or more dogs, at least four months of age, are kept.

Land use: The activity or activities for which a lot or property and the buildings or structures on it are devoted.

Loading Space: An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

1. Permitted Use: The only permitted uses are:

- a) Retail sales establishments (limited) – see definition
- b) Churches
- c) Museums
- d) Municipal government buildings
- e) Offices
- f) Temporary buildings incidental only to construction of a permitted use
- g) Customer and employee parking
- h) Uses customarily incidental to any of the above uses and accessory buildings
- i) Signs as provided for by this ordinance

2. Parking: Customer and employee parking shall be provided in publicly or government owned parking lots.

C. Commercial Land Use District:

1. Development Objectives:

- a) Promote vitality in the local economy;
- b) Provide opportunities for employment;
- c) Complement the historic and small-scale character of the Village as a whole;
- d) Allow for a diversity of small business uses that support and strengthen one another;
- e) Promote nonvehicular accessibility by discouraging uses that attract large-scale automobile and truck traffic presenting hazards to nonvehicular circulation.

2. Permitted Use: The only permitted uses are:

- a) Restaurants
- b) Art Galleries
- c) Bakeries, where all goods are sold on the premises at retail
- d) Banks
- e) Barber shops and beauty parlors
- f) Book or stationary stores
- g) Churches
- h) Dwellings, one-family
- i) Governmental buildings
- j) Hotel
- k) ~~Lodging Houses~~
- l) Museums
- m) Offices
- n) Photographer, craftsmen or artist studios
- o) Professional services (i.e., management, administrative, physician, dentist, attorney, accountant, and real estate broker)
- p) Retail sales establishments – *see definition*
- q) Savings institutions
- r) Signs as provided for by this ordinance
- s) Tailor and dressmaking shops
- t) Tavern

30. Failure to maintain exterior premise areas including; dwellings, commercial buildings, accessory buildings and structures, trees and or other landscaping, that may cause health, fire, ~~and~~ or accidental hazards, ~~and~~ or vermin, insect and rodent harborage;
31. Failure to maintain any dwelling unit or premise in a condition that does not comply with the minimum sanitation regulations of the Tuscarawas County Board of Health regardless whether the dwelling unit is occupied or vacant;

SECTION X
Permits and Approvals

A. **Project Permit:** No building or structure shall hereafter be erected, structurally altered or demolished until a project permit is approved by the PC and issued by the Zoning Inspector stating that the building or structure, and the use of the land, comply with the requirements of this ordinance and all other applicable building laws and ordinances.

(1) A *Project* shall include:

- i. Any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a building or structure;
- ii. The demolition of a building.

(2) A *Project* shall *not* include:

- i. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;
- ii. Work by any utility and other entity or person(s) engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing,) or constructing, on established rights-of-way, any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, and track;
- iii. A change in the ownership or form of ownership of any parcel or structure; and,
- iv. The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

All applications for project permits shall be made on forms prescribed by the PC and accompanied by the information requested. ~~a plat, drawn to scale, showing the actual dimensions of the lot, lots, or acreage to be built upon, the size of the building or structure to be erected or structurally altered, and its location on the lot, lots, or acreage.~~

For projects **outside of** the Historic District, the Zoning Inspector, after approval by the PC, shall issue a Project Permit in accordance with Section XI where the application complies with the requirements and the restrictions set forth in these *Regulations*. The action of the Zoning Inspector shall be in writing, made within thirty (30) days of the date the application was approved by the PC.

For projects **within** the Historic District, the Zoning Inspector, after approval by the PC, shall issue a Project Permit in accordance with Section XI which shall include a Certificate of Appropriateness (COA) by the Historic Preservation Commission (if required), and where the application complies with the requirements and the restrictions set forth in both the zoning and historic preservation ordinances. A COA shall be required for all project permits for a structure or site that has been designated as a local historic landmark. The actions of the Zoning Inspector shall be in writing, made within sixty (60) days of the date the application was approved by the PC or as otherwise specified in these *Regulations*.

If, during the construction process, any revisions shall be approved by the PC, and if applicable, the HPC. All project revisions shall be in writing and delivered to the applicant in person or by Certified Mail, return receipt requested.

- C. **Commercial Buildings:** For Commercial Buildings requiring a State of Ohio Commerce Department approval process, each project permit application shall include a copy of the *State of Ohio Department of Industrial Compliance Certificate of Plan Approval*. The Application shall also include two (2) sets of approved plans, one of which shall be filed with the Permit Application to the Village, and the other shall be forwarded to the Zoar Volunteer Fire Department. Upon completion of the Project, the Zoning Inspector shall be provided with a copy of the *State of Ohio Commerce Department of Industrial Compliance Certificate of Occupancy Approval*. A copy of the *Certificate of Occupancy Approval* shall be forwarded to the Fire Department and filed with the relevant Project Permit in the Village Zoning files.

The Zoning Inspector shall issue a permit after the application is approved by the PC, and where the application complies with the requirements and the restrictions set forth in these Regulations. The action of the Zoning Inspector shall be in writing, made within thirty (30) days of the date the application was approved by the PC.

No building shall be constructed and no permit shall be issued for any building on any premises not served by a sewer unless the area of the lot or acreage on which such building is to be erected complies with the Tuscarawas County Health Department and the Tuscarawas County Water and Sewer District regulations applicable to septic or other treatment systems for the proposed use, regardless of whether such regulations apply to land within municipal corporation limits.

- D. **Expiration and Cancellation of a Project Permit:** If the work described in any project permit has not been substantially completed within one (1) year from the date of issuance of the permit, the Zoning Inspector shall provide a written notice of incompleteness to the permit applicant and the owner of the land that is the subject of the permit. Construction or demolition may not continue except upon granting of an extension by the Zoning Inspector, with approval of the PC, subject to reasonable conditions imposed by the Zoning Inspector to insure prompt completion of the work. Upon failure to substantially complete the work following extension of the project permit, the Zoning Inspector may, with the approval of the PC, order the removal of the uncompleted building or structure. Upon failure by the applicant or the owner to remove an uncompleted building or structure within sixty (60) days of the service of the order on the applicant or the owner, the Village may cause removal and recover the costs in a manner provided for abatement of nuisances.

The Zoning Inspector, after review and approval of the PC, may suspend or revoke a Project Permit issued pursuant to these provisions whenever a Project Permit is issued on the basis of a misstatement of material fact. All approvals, denials, suspensions, *revisions*, or revocations of permits shall be in writing, and delivered to the applicant by personal delivery or by Certified U. S. Mail, return receipt requested.

- E. **Conditional Use Permit:** It is recognized that there may be other uses in the defined zoning districts that are appropriate and consistent with the overall purpose of these regulations. It is also recognized that the approval of other uses must maintain adequate provisions to minimize any negative impacts to other property owners and to ensure the security, health, safety, general welfare and character of the Village.

SECTION XI

Administrative Functions

1. Zoning Inspector:

The position of the Zoning Inspector shall be established. The Zoning Inspector shall be appointed annually by the Mayor with approval of Village Council. The Zoning Inspector shall, after review and approval by the PC, issue all permits for projects complying with the terms of these regulations and those of any HPC Certificate of Appropriateness.

The Zoning Inspector shall also issue citations for any permit violation including any conditions or restrictions imposed by the Planning Commission upon the granting of any variance or conditional use permit. The Zoning Inspector shall file any necessary complaints before a court of competent jurisdiction to initiate prosecution for any violation of these regulations or any orders of the Planning Commission.

The Zoning Inspector may not enter and inspect private property without a search warrant where the owner or occupant of the property does not give consent, unless there is an emergency or the property is open to the public.

2. Planning Commission (PC):

A. Planning Commission: A Planning Commission consisting of five members shall be established consisting of the Mayor; one (1) member of the Village Council elected thereby to serve for the length of his/her elected term; two (2) citizens of the Village; and, one (1) public member* to each serve six (6) year terms, except that the term of one of the members of the first commission shall be for four (4) years and one for two (2) years. At least one PC member other than the Mayor shall also be a member of the Historic Preservation Commission.

*The public member appointed under this section need not be a resident of the village but shall be a resident of the county in which the village is located or a township that is adjacent to the county. All members are subject to ORC 2921.42, and the Planning Commission shall have the powers conferred in ORC 735.15.

B. The PC shall administer the Village Zoning and Subdivision Regulations. Any reference in Village ordinances, State statutes, or elsewhere having referred to the "Board of Zoning Appeals" shall mean the Village Council. The PC shall exercise all powers and duties imposed or permitted pursuant to O.R.C. 713.11, as amended.

C. Meetings and Hearings: All meetings and hearings of the PC shall be open to the public, except as provided by provisions of O.R.C. 121.22, as amended. A majority of PC members shall constitute a quorum. The PC shall elect a Chairman, vice-Chairman, and Secretary at its initial meeting each year. The PC may appoint a non-member to serve as the Secretary. Meetings shall be held at the call of the chairman or at the request of two members, or at such other times as the PC may determine. The PC shall keep minutes of its proceedings showing the vote of each member upon every question decided by it, or if any member is absent or fails to vote, indicating such fact. Statement of the facts found by the PC shall be

conditional use permits from the provisions of these regulations. The concurring vote of a majority of the PC membership at a lawful meeting shall be necessary to approve a variance or conditional use. Decisions of the PC shall take effect ten (10) days following such decisions.

- E. **Amendments to the Zoning Regulations:** The PC shall review and make recommendations to the Village Council on proposed text or map amendments to this *Regulation*.
- F. **Advice and Recommendations:** The PC shall advise the Village Council, Zoning Inspector, other public agencies and property owners in matters involving buildings and structures.
- G. **Approval of Permits:** The PC shall review and approve all permits and variance requests, and advise the Village Council, Zoning Inspector, other agencies and property owners in matters involving buildings and structures.
- H. **Conceptual Reviews:** When requested, the PC shall conduct conceptual reviews to assist project permit applicants with any clarifications of this *Regulation*.
- I. **Appeals to Village Council:** Any aggrieved applicant for a project permit may appeal such decision by the PC to Village Council by filing a written notice of such appeal within 10 days of receiving a copy of the rejected permit application. For any variance or conditional use permit, any aggrieved applicant or property owner within 200 feet of the applicant, may appeal such decision by the PC to Village Council by filing a written notice of such appeal within 10 days of the PC notifying the applicant and the public of such decision. The PC shall furnish to Village Council copies of all papers or records pertaining to such decision. Within sixty (60) days thereafter, Village Council may, by a vote of a majority of the eligible elected members, revise or modify the decision of the PC. The Mayor and the Council representative serving on the PC shall not be eligible to vote on an appeal to Council, except that the Mayor can vote to break a tie. Should Council fail to act within such period of sixty (60) days, or should the resolution of revision or modification fail to be passed by the required vote of Council, such decision of the PC shall be deemed to be affirmed. Decisions of the Village Council shall be final. The Village Clerk Fiscal Officer shall notify the appellant of Council's decision within ten (10) days. An appeal of the decisions of the Village Council shall be subject to judicial review by the Court of Common Pleas of Tuscarawas County, Ohio, in accordance with the law of the State of Ohio.
- J. **Stay of proceedings:** An appeal shall stay enforcement proceedings in furtherance of the appealed action, unless the Zoning Inspector certifies to the PC that by reason of the facts stated in the appeal, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed other than by an injunction granted by the Court of Common Pleas. A stay of proceedings shall not stay the Village's authority to issue a stop work order on a project that may be in progress and being performed in a manner that is not in conformance with applicable ordinances and regulations. Also, it shall not stay a project when the appeal is brought by a third-party contesting the issuance of a permit.

F. Color (Including: Roofing, Siding, Trim and Signs): The PC shall provide color oversight on all project permit applications in all districts except the Agriculture District. Soft (muted) colors that are typically recommended for historic areas will be required. Historic color palettes are available from many paint manufacturers. Selection of colors for historic buildings should reflect the period when built and should enhance the architectural character. Colors for the main body of a building should be complemented by accent colors for the trim, doors, and shutters.

G. Swimming Pool: Every swimming pool shall be completely surrounded by a fence, which shall be of rigid construction and shall be not less than four (4) feet in height and shall extend to within at least four (4) inches of the ground and shall contain no openings larger than four (4) inches square, except for gates or doors. All gates or doors through such enclosures shall be designed to permit locking and shall be kept locked when the pool is not in actual use. If the swimming pool is one of "above ground" construction with a deck or edge level greater than four (4) feet in height, no fence shall be required, however, all ladders, steps, or other means of access to the pool shall be removed when the pool is not in use or if not removed then access from the ground to the deck or edge shall be totally obstructed.

Alternative options to the above requirements include; automatic pool safety covers that meet or exceed the latest revision of ASTM Standard F1346-91; or the latest Consumer Product Safety Commission "Safety Barrier Guidelines for Residential Pools."