

Zoning Ordinance – 2020-05

Village of Zoar, Ohio

Effective date: 7/24/20

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of Zoar, Ohio that the Zoning Regulations shall be enacted by Ordinance 2020-05, and that Ordinance 2018-11 shall be repealed.

Zoning Regulations

Village of Zoar, Ohio

Adopted by Ordinance: No. 2020-05

Effective date 7/24/20

**ZONING REGULATIONS
VILLAGE OF ZOAR, OHIO**

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ZONING REGULATIONS

VILLAGE OF ZOAR, OHIO

SECTION I

Title

These Regulations shall be known and may be cited and referred to as the *Zoning Regulations of the Village of Zoar, Ohio*, and shall hereinafter be referred to as *Regulations*.

These Regulations shall be administered by the Village Planning Commission hereinafter referred to as the *PC or Commission*.

Purpose

The *Zoning Regulations* set forth in this Ordinance are for the purpose of dividing the Village into districts, restricting and regulating therein the location, erection, construction, alteration, demolition and use of buildings, structures, and land for trade, industry, residence and other specified uses; to regulate the density and use of lot areas, and to regulate and determine the area of open spaces surrounding such buildings; to establish building lines and the location of buildings designed for specified agricultural, commercial, residential and other uses within such areas; to establish standards to which buildings and structures shall conform; to prohibit uses of buildings or structures incompatible with the character of such districts, respectively; to prevent additions, alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder; to avoid congestion in the public streets by providing for off-street parking and the loading and unloading of vehicles; to provide for the gradual elimination of nonconforming uses of land, buildings and structures; and to prescribe penalties for the violation of this Ordinance.

The purpose also includes promoting the public health, safety, and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to conserve the taxable value of land, buildings, and structures throughout the Village; to preserve the unique historical character of the Village; to insure that signs within the Village are compatible with their surroundings and designed, installed and maintained to satisfy the user's needs and at the same time promote an amenable environment desired by the general public; to insure that all signs are constructed, installed, and maintained in such a manner as not to endanger public safety.

These regulations shall apply to all property located within the village corporation limits. Properties located in the village that are also part of the Cherry Hill Subdivision are also subject to additional Conditions and Restrictions established by the Cherry Hill Lot Owners Association.

SECTION II

Definitions

For the purpose of this ordinance, certain terms and words are hereby defined. Where any terms or words used in this ordinance are not so defined, common dictionary usage or applicable statutory, ordinance, or judicially determined definitions shall apply, where appropriate. When not inconsistent with the context, words used in the singular shall include the plural, the plural shall include the singular, and the present tense shall include the future.

Accessory building or use: A detached subordinate building or use which is located on the same land on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use or main use of such building.

Acresage: Any tract or parcel of land which has not been subdivided and platted or any land which has been included in plats or subdivisions in the past which have been vacated.

Alteration: Any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Amendment: Any addition, deletion, or revision of the text of these *Regulations* or any addition, deletion, or revision of the Official Zoning Map adopted by the Village Council after public hearings.

Apartment: A room or suite of rooms in a multiple-family dwelling or within a building with a business use located in a commercial district which is arranged, designed, used, or intended to be used as a housekeeping unit for a single person or family.

Applicant: Shall mean a developer, landowner, or other person with a legal property interest, including heirs, successors, and assigns, who has filed an application for any project or action.

Automobile Repair: General repair, engine rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; overall painting of motor vehicles.

Automobile Service Station: A place where gasoline stored in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and service for automobiles, but not including automobile repairs and rebuilding. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

Auto Wrecking or Junkyard: Any place where two or more motor vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging and scavenging of any other goods, articles or merchandise.

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 that provides short-term lodging, with or without the service of a morning meal, for compensation and where the operator lives 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.

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 advertised or known 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.

Lot: A parcel of land designated on the maps of the County Engineer, and of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or an approved private street.

Lot Area: The computed area contained within the lot lines. Where the lot has been conveyed to the center of the street, the area of the lot lying within the established street right-of-way shall not be included as part of the lot area for the purpose of these *Regulations*.

Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section.

Lot, Minimum Area of: The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

Lot Measurement: A lot shall be measured as follows:

1. **Depth of a lot** shall be considered to be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
2. **Width of a lot** shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line, provided, however, that the width between side lot lines at their foremost points (when they intersect with the street line) shall not be less than eighty (80) percent of the required lot width.
3. **Front to back** does not include road/street, etc., or portion thereof.

Lot of Record: A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Types: Terminology used in these *Regulations* with reference to corner lots, interior lots, and through lots is as follows:

1. A **corner lot** is defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.
2. An **interior lot** is other than a corner lot with only one frontage on a street.
3. A **through lot** is other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
4. A **reversed frontage lot** is a lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

Main Building: The largest existing building on the land or if there are no existing buildings on the land, the largest building as specified in any applicable building permit application.

Main Use: The specific use for which the land is utilized for the greatest amount of time compared to any other use.

Message: The wording on any sign.

Mobile Home: Any vehicle or similar portable construction assembled so as to permit its being moved on a public street and so as to permit the occupancy thereof as a dwelling by one or more persons, including but not limited to structures or vehicles defined by O.R.C. 4501.01(0), as amended, and regardless of whether wheels or axles remain on the construction or have been removed. Any such construction for which a certificate of title has been issued at any time shall constitute a mobile home.

Mobile Home Park: Any tract of land upon which two or more mobile homes are located, whether temporarily or permanently.

Museum: An institution, building or room for preserving and exhibiting artistic, historical or scientific objects.

Nonconforming Use: Any building, structure or land lawfully occupied by a use or lawfully situated at the time of the passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance or amendments thereto with the regulations of this ordinance.

Nuisance: Any condition or use of premises, structures, or buildings which is detrimental to the use of the property of other owners or which causes substantial diminution in the value of other property in the neighborhood in which such premises are located. In addition, nuisances shall include any use or activity designated as a nuisance by the Ohio Revised Code or Village Ordinances including this Zoning Ordinance.

Office: A business or professional establishment providing management, administrative, or professional services, but not involving the sale of merchandise, except as incidental to a permitted use.

Open space: Any parcel or area of land or an area of water designed and intended for recreation, resource protection, amenity, and/or buffers. Open space shall not include areas set aside for public facilities, driveways, parking lots or other surfaces intended or designed for vehicular travel.

Owner: The title owner, lessee, or the agent or assignee of any title owner or lessee.

Parking lot: An off-street, ground level open area for the temporary storage of motor vehicles.

Parking Space: An area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one standard automobile, which had adequate access to a public street or alley and permitting ingress and egress of an automobile. An unenclosed parking space shall measure no less than ten by twenty-four feet.

Person: Any individual, corporation, trust, association, firm, governmental agency, or partnership.

Planned Unit Development : An area of land, in which a variety of housing types and/or related commercial and industrial facilities are accommodated in a pre-planned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations. The procedure for approval of such development contains requirements in addition to those of the standard subdivision, such as building limitations and landscaping plans.

Porch: A roofed entrance to a building, projecting out from the wall or walls of the main structure and is commonly open to the weather in part.

Premise: a lot, plot, or parcel of land including the buildings and structures thereon.

Project: The carrying out of any building activity; the making of any material change in the use or appearance of any building or structure or land, but shall not include the dividing of land into two or more parcels (see *Subdivision*).

Public hearing: A formal meeting held pursuant to public notice, intended to inform and obtain public comment, prior to taking action in accordance with this ordinance.

Public Right-of-Way Width: The distance across a public street measured from property line to property line.

Public use: Any use intended to be conducted in a facility or upon land which is owned by and operated for public use by school districts or by village, county, state or federal governments.

Recreational vehicle: A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreation, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Rehabilitation: the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Required parking: The minimum number of parking spaces required to be provided in connection with the particular use of a lot as specified .

Restaurant: Any establishment where the primary use is to sell food or prepare food for immediate sale, whether such food is intended for on or off premises consumption, and including any use requiring a food service permit issued by the County Health Department.

Residence: That place in which a person's habitation is fixed on a long term basis and to which, whenever the person is absent, the person has the intention of returning (ORC 3503.02).

Resident: A person domiciled in a residence within the Village o Zoar. A domicile is described as a place where an individual has his true, fixed, permanent home and principle establishment, and to which whenever he is absent, has the intention of returning.

Retail Sales Establishments: shall mean establishments permitted in the commercial district that sell commonly used goods and merchandise for personal or household use, but excludes those uses classified as nuisances or otherwise prohibited by this Ordinance. Permitted uses are the sale of: groceries, furniture, clothing, household electronic equipment, sporting goods, bicycles, office supplies, home furnishings, household appliances, wallpaper, carpeting and floor coverings, art supplies, kitchen utensils, jewelry, drugs, cosmetics, books, notions, and antiques.

Retail Sales Establishments (Limited): shall mean establishments permitted in the Historical Commercial Land Use District that sell merchandise primarily for the tourist/visitor trade, but excludes those uses classified as nuisances or otherwise prohibited by this Ordinance. Permitted uses are the sale of: jewelry, books, notions, antiques, period reproductions, souvenirs, pottery, candles, arts and crafts or other items approved by the Zoning Board.

Right-of-way: A strip of land dedicated to and/or improved for vehicular and/or pedestrian travel by the public.

Setback: The minimum or maximum distance a building or structure shall be required to be situated from an adjacent lot line, except as modified according to this ordinance. Certain building projections and uses of the lot may extend into the setback area only as expressly allowed in these *Regulations*.

Setback Line: A line established by the subdivision and/or zoning regulations, generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in these regulations (see Yards).

Sidewalk: That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic (see Walkway).

Thoroughfare, Street or Road: The full width of property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

1. *Alley* – a minor street used primarily for vehicular service access to the back or side of property abutting on another street.
2. *Arterial Street* – a general term denoting a highway primarily for through traffic, carrying heavy loads and a large volume of traffic, usually on a continuous route.
3. *Collector Street* – a thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
4. *Cul-de-Sac* – a local street of relatively short length with one (1) end open to traffic and the other end terminating in a vehicle turnaround.
5. *Dead-End Street* – a street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
6. *Local Street* – a street primarily for providing access to residential, commercial, or other abutting property.
7. *Loop Street* – a type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of the one hundred eighty (180) degree system of turns are not more than one thousand (1000) feet from said arterial or collector street, nor normally more than six hundred (600) feet from each other.
8. *Marginal Access Street* – a local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. Also called Frontage Street.

Sign: Any identification, description, illustration, symbol or device, illuminated or non-illuminated, flag or banner, which is visible from any public place and designed to advertise, identify, or convey information, including any landscaping where letters or numbers are used for the purpose of directing the public's attention to a product or location, and including messages displayed on or in windows.

Sign, Animated: Any sign that uses flashing lights or movement of the sign or some element thereof, to depict action or create a special affect or scene.

Sign, Awning or Canopy: Any sign that is painted, printed, or otherwise attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance or window.

Sign, Area of: The area of the face of the sign including the perimeter which forms the outside shape, including any frame, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consist of more than one section, all areas will be totaled. Where panels are installed back to back, one face only is considered as area, however, if the panels differ in size, the larger face will be considered in determining the area.

Sign, Abandoned: A sign that no longer advertises a bonafide business, lessor, owner, product, or activity conducted or product available.

Sign, Banner: A temporary sign composed of lightweight materials secured or mounted so as to allow movement caused by the wind.

Sign, Building: The sign lettered to give information such as the name, street number, or date of the building itself, as opposed to information such as the names of occupants or services rendered or merchandise offered for sale on the premises.

Sign, Business: Any sign identifying or advertising a business, person, activity, goods, products, or services, whether located on or off the premises where the sign is installed and maintained.

Sign, Changeable Copy: A portion of a sign with letters, characters, or graphics that are not permanently affixed to the structure, framing, or background allowing the letters, characters or graphics to be modified manually or by electronic or mechanical devices from time to time as situations change, such as a bulletin board or announcement board.

Sign, Construction: A temporary sign identifying a building or construction site and the architects, engineers, financial institutions, contractors, and suppliers involved.

Sign, Directional: Any sign that serve solely to designate the location of any place or area.

Sign Face: The entire area of a sign on which a message could be placed.

Sign, Fascia: A sign attached to or erected against a fence or a wall of a building, with the face parallel to the building wall or fence and extending not more than four inches there from, and including any message applied directly to a wall or fence. Where the message is applied directly to a wall or fence, the size of the sign shall be the horizontal and vertical distances between the most extreme letters or designs incorporated into the message.

Sign, Freestanding: A sign erected on a free-standing frame, mast, or pole, and not attached to any building.

Sign, Height of: The vertical distance measured from the ground surface to the highest point of said sign, including the sign structure.

Sign, Illuminated: Any sign that is lighted from within or without, either by direct illumination or reflection.

Sign, Incidental: A secondary sign not directly describing goods, products, services, or facilities which are available on the premises where the sign is located; e.g., credit cards accepted, official notices required by law, trade affiliations, open/closed signs, business hours.

Sign, Mobile: shall mean a sign that is on wheels, runners, casters, or has a frame to which wheels, runners, or casters may be affixed, parked trailers, parked vehicles, or other mobile devices, including tethered and/or anchored balloons.

Sign, Projecting or Hanging: A sign, other than a wall sign, which is attached perpendicularly to and projects from a structure or building face. The area of a double-faced projecting or hanging sign is calculated on one face of the sign only.

Sign, Real estate: Any sign to sell, lease, or rent land or buildings or to advertise an auction of real estate or building contents. As used in this Ordinance, a real estate sign does not include a sign identifying or advertising a real estate broker's office.

Sign, Roof: Shall mean a sign erected, constructed or maintained wholly upon or over the roof or parapet wall of any building with the principal support on the roof structure.

Sign, Temporary: Shall mean a sign that is designed to be used for less than 30 days and is not intended to be permanently attached to a building, attached to a structure or installed in the ground.

Sign, Structure: Any structure that supports, has supported, or is designed to support a sign.

Sign, Street: A sign displaying the name or number of any public highway, street, or alley.

Sign, Traffic: Any sign installed by the Village of Zoar, County of Tuscarawas, or the State of Ohio conveying any message to vehicles operating on highways and streets, or to pedestrians walking on highways and streets, regardless of whether such signs conform to the Ohio Uniform Traffic Control Device Manual.

Sign, Unlawful: A sign which is constructed in violation of the provisions of this ordinance or any sign which the Zoning Inspector may declare as unlawful if it becomes dangerous to public safety by reason of abandonment or disrepair.

Sign, Window: A sign installed on the inside or outside of a window for purposes of viewing from the outside of the premises, or a message painted on the inside or the outside of a window for purpose of viewing from outside the premises. A window sign shall not include any sign designated as an Incidental Sign as defined by this Ordinance, unless otherwise provided.

Site: Any lot, plot, parcel or parcels of land, or contiguous lot combinations.

Site plan: The proposed layout of a lot showing all elements of the site development as well as utility and drainage lines, and existing buildings and structures to remain.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen feet in height shall be considered as an additional story for each fourteen feet or fraction thereof.

Street: A public highway, road, or alley which affords the principal means of access to adjacent lots, and as measured from property line to property line.

Structural Alterations: Any change which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Structure: Any construction requiring permanent location on or in the ground, including but not limited to paved or gravel driveways, parking lots, sidewalks, swimming pools, and foundations; and any erections such as television or radio reception devices, wireless antenna devices, satellite dishes or other communication devices whether transmitting or receiving; and outdoor erections for lights, walls, fences, and signs, whether free-standing or attached to other structures or buildings.

Subdivider: see Developer.

Subdivision: shall mean:

1. The division of any parcel of land shown as a unit on the last preceding tax roll, into two (2) or more parcels, sites or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five (5) acres not involving any new streets or easement of access, and the sale or exchange of parcels between adjoining lot owners, does not create additional building sites, shall be exempted; or,
2. The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets; the division or allocation of land as open spaces for common use by owners, occupants, or leaseholders; or division or allocation of land as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities.

Tavern: An establishment where the primary business is dispensing alcoholic drinks (e.g., beer, wine, and liquor) for on-site consumption, and in which the sale of food products is secondary; also known as a saloon or bar.

Swimming Pool: Any artificial water pool of steel, masonry, concrete, aluminum, or plastic construction, located out of doors, which has a water surface area of 200 square feet or more or a depth at any point of more than eighteen inches, or both.

Trailer, Automobile: A vehicle without motive power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons or property.

Trailer Camp, Automobile: Any premises occupied or designed to accommodate more than one family living in an automobile.

Truck: A motorized vehicle with a manufacturer-defined “curb weight” (fully fueled vehicle weight with no passengers or cargo) of three (3) tons (6,000 pounds) or more and which is licensed by the Ohio Bureau of Motor Vehicles as a truck.

Use: The purpose for which land or a building or a structure thereon is designed, arranged or intended, or for which it is occupied or maintained.

Variance: A modification of the strict forms of the relevant regulations where such modifications will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulation would result in unnecessary and undue hardship.

Walkway: A dedicated public way, four (4) feet or more in width, for pedestrian use only, whether along the side of the road or not.

Yard: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward, provided accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

1. **Yard Front** – a yard extending between side lot lines across the front of a lot and from the front lot line to the nearest part of the main building.
2. **Yard, Rear** – a yard extending between side lot lines across the rear lot line to the rear of the nearest part of the main building.
3. **Yard, Side** – a yard extending from the main building to the side lot line on both sides of the main building between the lines establishing the front and rear yards

SECTION III

General Provisions

A. Streets and Alleys: All streets and alleys whether opened or unopened, and railroad right-of-ways, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, or railroad right-of-ways. Where the centerline of a street or alley serves as a district boundary the zoning of such street or such street or alley, unless otherwise specifically designated shall be deemed to be the same as that of the abutting property up to such centerline.

B. Permitted Construction and Uses: No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, for any purpose other than what is permitted in the district or area in which the building or land is located. Nor shall any building or land be used for any purpose other than what is permitted in the district or area in which the building or land is located. If a use is not specifically permitted in any district or area, it shall be considered prohibited unless approved by a conditional use permit.

Any landowner may request a *Planned Unit Development* (see Section IV, subsection G). The provisions of this approach may allow development to be located on smaller lot sizes with the remaining land set aside for the purpose of preserving the Village's pastoral setting including important environmental, scenic and historic features. A Planned Unit Development shall require a conditional use permit and final approval by Council.

C. Locations of Main Buildings: Every main building hereafter erected or structurally altered shall be located on a lot or acreage as herein defined and in no case shall there be more than one such building on one lot or acreage.

D. Building Height: See Appendix A, Section 1.

E. Structure: No structure shall be used by anyone other than the owner or occupant of the building for any purpose other than a use incidental to the main use of the building. See Appendix A, Section 1.

F. Access to Streets or Alleys: No building shall be constructed or erected upon a lot, or parcel of land, which does not abut upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of twenty-five (25) feet unless an easement of lesser width was of record prior to the adoption of this amended ordinance.

G. Obstructions: No structure or shrubbery shall be erected, maintained or planted on any lot in a manner that unreasonably obstructs or interferes with traffic visibility on a curve or at any street intersection.

H. Location of Residential Buildings: No residential building shall be erected upon the rear of a lot with an existing commercial use or upon a lot with another dwelling.

I. Public Areas: An area indicated on the official zoning map as a public park or recreation area, public utility area, cemetery, public school site, or any other public open space, shall not be used for any other purpose. When the use of any property within the Village is discontinued, any zoning change shall be approved by the Village Council.

J. Annexation: Any area annexed to the village shall be zoned in accordance with relevant provisions of the *Ohio Revised Code*.

K. Commercial Easements: No easement shall be permitted in any residential district to serve any building or other use in any commercial district.

L. Lot Area: Every lot, acreage, or other parcel of land serviced by a sanitary sewer or an approved septic system shall have a minimum width at the front building line and a minimum area as specified in the current Village Subdivision Regulations, for all uses permitted by this Regulation. However, a main building may be erected, if setback and land coverage restrictions can be met, on any single lot of record at the date of the enactment of ordinance 1986-21, regardless of the area of such lot. Any lot not serviced by a sanitary sewer must conform to the lot size dictated by the applicable requirements of the Tuscarawas County Board of Health or the Tuscarawas County Regional Planning Subdivision Regulations with regard to septic systems.

M. Setback: See Appendix A, Section 1.

N. Land Coverage: See Appendix A, Section 1.

O. Accessory Buildings: See Appendix A, Section 1.

P. Swimming Pool: See Appendix A, Section 1.

Q. Fences: All fences shall be well-maintained and harmonious in appearance with the existing character of the immediate area in which it is located. Fences shall not block the line of sight of roadways or present safety hazards to police, emergency or fire protection services. With the exception of the Agriculture District and property located outside the Historic District, all fences shall be constructed of natural rot resistant wood, treated wood or synthetic materials that closely resemble natural wood. No fence shall be constructed of masonry or metal materials, or any other materials that may be sharp or otherwise harmful to humans or animals. All fences shall be symmetrical in appearance including the spacing of posts, pickets or railings. Fences shall be constructed with the finished side facing outside and away from the owners' property.

All fences shall conform to the following:

- a) Front yard or side yard of a corner lot: The height of the fence shall not exceed 4 feet measured from ground level. The fence shall be constructed so that at least 50% is open to air and light.
- b) Side yard or the interior side yard of a corner lot: The height of the fence shall not exceed 5 feet measured from ground level. The fence shall be constructed so that at least 25% is open to air and light.
- c) Rear yard which is also the rear property of the abutting property: The height of the fence shall not exceed 6 feet measured from ground level.

R. Public Events: By resolution, the Village Council may grant exemption from provisions of this *Regulation* for public events such as festivals, exhibitions, and sports events, lasting three consecutive calendar days or less, where the Village Council determines that the benefits to the Village and its citizens, as a whole, outweigh the burdens imposed by the event on the Village or individual citizens. Any resolution granting exemption shall include any restrictions as to land use, signage, and traffic

control deemed appropriate by the Village Council to carry out the purposes of this ordinance. Council approval shall apply to only the person or organization requesting the event.

S. Village Government Owned Property: As Village Government is exempt from Zoning Regulation provisions, the Village Council may, by Resolution or Simple Motion, use Village owned property for any use that the Village Council determines will benefit the Village and its citizens, as a whole, more than would adherence to the usage provisions of this *Regulation*. Any such resolution or motion for such use shall include any restrictions as to land use deemed appropriate by the Village Council to carry out the purpose of these *Regulations*.

T. Sanitation and Maintenance of Dwellings and Premises: These *Regulations* shall adopt by reference the regulations and provisions of the Tuscarawas County Board of Health for “*Hygiene, Sanitation, and Maintenance of Dwellings, Dwelling Units and Premises Regulations*”. All premises and dwelling units shall meet the minimum sanitation standards of these regulations regardless if occupied or vacant.

SECTION IV
Land Use Districts

The Village is hereby divided into six land use districts and one historic area district;

- R – Residential
- HC – Historic Commercial
- C – Commercial
- A – Agricultural
- P – Parks & Cemeteries
- C – Conservation
- HA – Historic Area

The boundaries and areas of the designated districts are shown on the official zoning map of the Village. This zoning map is made a part of this ordinance and is on file in the Village Hall. All notations, references, and other information shown on this map are a part of this ordinance and have the same force and effect as if the zoning map and all such notations, references, and other information shown thereon were fully set forth or described herein. Changes in any boundaries or districts or amendments of any other provisions to said map shall be entered on the map by the mayor of the village promptly following the effective date of such amending ordinances, noting thereon the ordinance number and effective date.

Permitted Uses are detailed within each district.

Prohibited Uses in all districts are as follows:

- a) The use of any part of a premise including “whole House” limited rental lodging in a dwelling or commercial business whether arranged by the owner or operator or through a booking agent such as “AIRBNB” or “HomeAway” internet services or any other services, and where the resident, owner or operator is not on site full time to host and to monitor the lodgers during their stay.

Any resident, owner or operator desiring to operate a business that does not comply with the zoning ordinance may do so upon being granted a Conditional Use Permit described in Section XII(C).

A. Residential Land Use District:

1. Development Objectives:

- a) Meet the housing needs of the residents of the Village;
- b) Preserve and protect the character of established residential neighborhoods;
- c) Promote development of housing under conditions which maximize safety and good building principles, and minimize disturbances to neighboring residents;
- d) Permit, with certain restrictions, home occupations that do not impact the residential character of the District.

2. Permitted Uses:

- a) A one-family dwelling, which constitutes the main building on the lot or acreage;
- b) Uses customarily and clearly incidental to the residential use of the dwelling;
- c) Accessory Buildings;
- d) Temporary buildings and uses for construction purposes for a period not to exceed one year;
- e) Home occupations subject to the following restrictions:
 - i. All customers and business contacts shall be conducted entirely within the dwelling and/or residential accessory building;
 - ii. Accessory buildings may also be used for storage or workspace;
 - iii. No home occupations shall create any nuisances. Any owner desiring to operate a business that does not comply with the conditions herein may do so upon being granted a Conditional Use permit. Approved business include: bed & breakfast, hair salon, music lessons, arts & crafts, (including lessons), graphic design, sewing, the sale of antiques & period reproductions, candles, pottery, herbs, flowers and plants.
 - iv. Only driveways and parking spaces existing at the time of the enactment of this ordinance and lawful under any previous zoning ordinance provisions, and incidental to the residential use of the dwelling may be used for customer and business parking;
 - v. There shall be no exterior evidence of such occupational use of the land or buildings except where the occupation is the sale of plant material which, by its nature, may be produced out-of- doors and is consistent with the residential appearance of the dwelling and lot.
- f) Signs, as permitted by this ordinance.

3. **Planned Unit Development:** See Section V.

4. **Dwelling Standards:** See Appendix A, Section I and II.

B. Historic Commercial Land Use District:

This district was created in 1998 to allow additional usage of property owned by the State of Ohio, Ohio Agencies, and the Village of Zoar. All properties within this District are delineated on the official zoning map of the Village.

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) Museums
- l) Offices
- m) Photographer, craftsmen or artist studios
- n) Professional services (i.e., management, administrative, physician, dentist, attorney, accountant, and real estate broker)
- o) Retail sales establishments – *see definition*
- p) Savings institutions
- q) Signs as provided for by this ordinance
- r) Tailor and dressmaking shops
- s) Tavern
- t) Temporary buildings incidental only to construction of a permitted use

- u) Customer and employee parking
- v) Uses customarily incidental to any of the above uses and accessory buildings when located on the same lot.

All business or service of aforesaid stores, shops or businesses shall be conducted wholly within a completely enclosed building, except for automobile parking and off-street loading areas. Any person desiring to operate a business or service not listed herein may do so upon being granted a conditional use permit as described in Section VII, D.

3. Parking: Commercial uses shall provide, as a minimum, the following areas for customer and employee parking:

- a) Hotels: One parking space for each guest sleeping room.
- b) Restaurant: One parking space for each 100 square feet of customer and food preparation area.
- c) Retail Sales Establishments: One parking space for each 300 square feet of floor space.
- d) Other Commercial Uses: One parking space for each 200 square feet of floor space, excluding hallways, common areas, and restrooms.

D. Agricultural Land Use District:

1. Development Objectives:

- a) Protect and promote agriculture as a component of the local economy;
- b) Provide for those uses which require large land areas and which are compatible with or supplement agriculture;
- c) Maintain lower residential densities in those areas less suited to development; and,
- d) Avoid the costly extension of public services to such areas.

2. Permitted Use: The only permitted uses are:

- a) The cultivation of crops, animal husbandry, and structures necessary to such uses, provided that no structures shall be used for the processing of food or other agricultural by products;
- b) Roadside stands offering for sale products raised on the premises or products, at least half of which are grown on the premises, provided that such stands shall be located behind the road right-of-way.
- c) Any use permitted in the Residential District; subject to the following: It is not the intent of these regulations to offer a residential environment protected from the effects of usual and customary agricultural activity.
- d) *Planned Unit Development: see Section V.*
- e) Signs as permitted by this ordinance.

E. Conservation Land Use District:

1. *Development Objectives:*

- a) Protect the values of distinctive environmental, historic and scenic features;
- b) Preserve and protect wildlife habitats;
- c) Conserve natural resources and protect the ecological balance of an area; and
- d) Provide opportunities for environmental education and outdoor recreation that are compatible within the other objectives of the District.

2. *Permitted Use:* The only permitted uses are:

- a) Forestry;
- b) Hiking trails, boardwalks, and footpaths;
- c) Forest preserves, wildlife habitats and fish breeding habitats;
- d) Observation stations and interpretive displays ;
- e) Shelters or storage areas ;
- f) Accessory Uses:
 - (1) Off street parking areas, driveways and walkways;
 - (2) Sanitation facilities wholly enclosed within a permitted main building or structure, or suitably and attractively screened from view;
 - (3) Lighting structures and flagpoles;
 - (4) Fences, walls and hedges.
- g) Signs as permitted by this ordinance.

F. Parks and Cemeteries Land Use District:

1. *Development Objectives:* The Parks and Cemeteries Land Use District regulations are intended to provide government, recreational and cemetery facilities appropriately located while minimizing adverse impacts to adjoining residential areas.

2. *Permitted Uses:* The only permitted uses are:

- a) Governmentally owned Cemeteries;
- b) Governmentally owned and/or operated buildings or facilities;
- c) Publicly or private owned and/or operated outdoor recreational facilities including picnic areas, parks, playgrounds, and athletic fields;
- d) Publicly or private owned and/or operated recreational facilities containing extensive open space and preserving natural features of the area, including recreational areas, day camps, private parks and including overnight uses such as campgrounds;
- e) Accessory Uses: The only permitted accessory uses are:
 - (1) Off-street parking areas, driveways and walkways;
 - (2) Sanitation facilities wholly enclosed within a permitted main building or structure, or suitably and attractively screened from view;
 - (3) Lighting structures and flagpoles;
 - (4) Fences, walls and hedges.
- (f) Signs as permitted by this ordinance.

Section V
Planned Unit Development

1. Development Objectives:

- a) Protection of the economic vitality of the Village through preserving its pastoral setting;
- b) Preservation of important environmental and scenic features;
- c) Efficient use of facilities and improvements required in connection with residential development;
- d) Increased flexibility in the arrangement of residential development so as to minimize the impact on the environment and existing residential areas.

2. Permitted Uses: The only permitted uses are:

a) Any one-family dwellings in the Residential or Agricultural District provided that:

- 1. A Developer may consider using a *Planned Unit Development* design that locates buildings in specific areas on the site to allow the remaining land to be used for preserving open space, environmental and historic features.
- 2. All *Planned Unit Development* proposals are subject to a conditional use permit and must have final approval by Council.

b) Permanent Open Space provided that:

- 1. Council reserves the right to approve the amount of the gross acreage that shall be retained as permanent open space designed to best preserve the natural qualities of the land and shall typically include all or part of the following resources:
 - a) Mature woodlands.
 - b) Top of ridge lines.
 - c) Significant wildlife.
 - d) Existing farmland.
 - e) Historic, archaeological, scenic views or cultural features.
- 2. To the greatest extent possible, designated open space shall be contiguous acreage; except areas that by their nature have a linear configuration, such as buffers, waterbodies, or trail links, the length to width ratio of any parcel of open space shall not exceed 4:1.
- 3. Every effort shall be made to provide open space that will either connect or have potential to connect to adjacent areas to form a network of open spaces.
- 4. Stormwater management ponds or basins may be included as part of the minimum required open space.
- 5. Uses of the open space shall be limited to agricultural uses existing at the time of passage of this ordinance, conservation, or as otherwise approved by Village Council.

6. Copies of the proposed documents which provide for the permanent preservation of open space shall be submitted with a conditional use permit application for a *Planned Unit Development*. No action on a permit application shall be taken until such information requested and fees are determined to be complete by the PC.
7. Open space as part of a *Planned Unit Development* shall not be depleted, reduced in size or converted to any other use.

3. Development Area and Overall Density:

- a) A developer of land located in the Residential or Agricultural land use districts may elect a *Planned Unit Development* approach subject to a conditional use permit and the approval of Council.
- b) There is no minimum acreage requirement for a proposed *Planned Unit Development*; however, the total area shall be under one ownership at the time of application or the subject of a joint application.
- c) The overall residential density shall be based on the provisions of the Subdivision Regulations.

4. Design Criteria: When reviewing a proposal for a *Planned Unit Development*, the PC shall use as a guide the standards set forth below. Where strict application of these standards would serve no significant purpose, the PC shall have the authority to waive, modify or apply additional standards so long as the convenience and general welfare of neighboring uses are maintained.

- a) Unless otherwise specified in a conditional use permit, lot sizes and setbacks shall be shown on the development plan and shall comply with the requirements of all Village regulations ;
- b) Lot sizes may be reduced with the balance set aside as permanent open space;
- c) Sites of historic value, shall be protected;
- d) Building sites shall be arranged to minimize disruption of scenic views and vistas;
- e) The location, mass and spatial relationships of buildings shall emulate traditional Village grid-type street patterns and local character;
- f) The arrangement of roads, driveways and lots shall be logically related to existing topography and land form;
- g) Natural features such as hills and ridges, trees, wooded areas, rock outcroppings, ravines, and water courses shall be undisturbed insofar as possible;
- h) The PC may require a buffer around all or a portion of the boundary of a *Planned Unit Development* to screen and lessen the impact of the development on surrounding properties. The buffer shall be maintained as open space which may be included as part of the required open space.

5. Private Streets: Private streets as a common easement may be used to provide internal circulation to housing in a *Planned Development* in accordance with the following:

- a) The easement shall not be counted as required open space;
- b) The easement shall be approved as part of the subdivision plat as the most appropriate form of access to lots and/or structures;
- c) A landlocked lot fronting a private street right-of-way shall not require a variance.

Section VI

Historic Area District Zoning Requirements

A. Overview:

These *Regulations* use the term *Historic Area District*, however, any use of the term *Historic Area* shall have the same meaning.

The Village Council, being aware of the uniqueness of the Village as a *living* historical community and the importance of maintaining the character and architectural integrity of the Village for the benefit of its inhabitants and future generations, hereby declare as a matter of public policy that the preservation, restoration, rehabilitation and overall aesthetic values of historic areas, buildings and structures within the community are matters of public necessity involving the health, safety, welfare and property of the people of the Village.

B. Historic Area District:

The *Historic Area District* is defined and delineated on the official zoning map of the Village.

The areas located within this district are subject to additional requirements. These requirements are in addition to the Land Use requirements set forth in this ordinance. Where there is a conflict between the Land Use Zoning District requirements and the Historic Area District requirements, the provisions of the Historic Area District shall take precedence. Properties in the Historic Area District shall be subject to all requirements contained in this ordinance for the land use district of said property and to the requirements set forth for the Historic Area District regardless of the land use district in which the property is located.

C. Development Objectives:

- a) Protect existing buildings that are of historical importance or aesthetically valuable;
- b) Support a compatible mixture of commercial, cultural, institutional, and government uses;
- c) Enhance the Village's cultural, social, economic and architectural history;
- d) Preserve and protect public open spaces that contribute to social activity, recreational, and visual enjoyment;
- e) Encourage a pedestrian friendly environment;
- f) Encourage centralized parking facilities to collectively support uses in the district.
- g) Increase the economic benefits to the Village by promoting tourism and other compatible commercial uses;
- h) Protect existing historic buildings, structures, and physical surroundings for future generations;

In addition, this Ordinance is intended to maintain and enhance the basic character of Zoar through:

- i) Protecting and preservation of the basic characteristics and salient architectural details of structures insofar as these characteristics and details are compatible with the basic characteristics and salient architectural vocabulary of the Village of Zoar;
- j) Affording the widest possible scope of continuing vitality through private renewal and architectural creativity within appropriate controls and standards. It is intended to foster a

climate in which Zoar may continue to exist as a living changing commercial and residential area and not a static museum;

k) Encouraging compatibly developed properties in accordance with the character of the area;

l) Stabilizing and improving market values for all residents of the Village;

m) Establishing protection for the defined Historic Area District's unique architectural heritage by adopting building standards for new construction that will maintain architectural unity, but not uniformity.

D. Historic Area District Architectural Requirements. See Appendix A.

SECTION VII

Nuisances

Each of the following uses or actions is deemed to constitute a nuisance and shall not be permitted in any district or area:

1. Metallic powder works;
2. Chemical, cement or asphalt plants;
3. Bulk petroleum stations;
4. Crematories;
5. Distillation of bones, fat, glue, or gelatin manufacturing;
6. Manufacturing or storage of explosives, gunpowder, or fireworks;
7. Manufacture of fertilizer;
8. Dumping, storing, burying, reducing, disposing of, or burning of garbage, refuse, scrap metal, brush, rubbish, or dead animals;
9. Junkyards, , auto graveyards, or places for the collection or storage of scrap metal, lumber, paper, glass, rags, junk, trash, or refuse;
10. Slaughter houses;
11. Racetracks for motorized vehicles;
12. Commercial amusement parks;
13. Sand, gravel, coal, or clay mines or pits; Strip mining;
14. Drilling of oil or gas wells;
15. Storage or commercial repair of substantially damaged or disabled vehicles and unlicensed vehicles, except those kept in entirely enclosed buildings;
16. Mobile home parks;
17. Storage of mobile homes, privately owned busses, trucks over one ton rated hauling capacity, tractor trailer outfits, excavating equipment, and any other vehicles exceeding three tons in weight unless kept in entirely closed buildings;
18. Truck terminals; Automobile and truck service stations;
19. Vending machines located outside of buildings;
20. Motor vehicle sales, requiring new or used auto sales licenses from the State of Ohio, service or repair of motor vehicles other than those owned by residents or occupants of the premises where such activity is carried on;
21. Rock music festivals;
22. The open presence of or storage of abandoned, discarded, or unused furniture, housewares, equipment, household appliances, refuse, garbage or animal waste;
23. Manufacture, handling or storage of any item, or operation of any device, resulting in the pollution of the outside air, water, or land; or resulting in emission of obnoxious odors, dust, smoke, gas, noise, fumes, flames, vibrations, radiation, or anything resulting in a public health hazard;
24. Hospitals, rest homes, or residential treatment or care facilities for contagious diseases, the insane, mentally ill patients, drug or alcohol addicted individuals, and penal institutions;
25. Assembly or sale of trailers, campers, or mobile homes;
26. Kennels;
27. Junk motor vehicles;
28. Holding a property in unkempt condition due to the presence of vegetation overgrown by 12-inches, except for actively farmed agricultural pastures, hay, crop or other product fields;
29. Gaming – except games operated by the State of Ohio (i.e. state lottery and keno);

30. Failure to maintain exterior premise areas including; dwellings, commercial buildings, accessory buildings and structures, trees or other landscaping, that may cause health, fire, or accidental hazards, 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 VIII

Signs

A. General Restrictions:

Relief from any of these provisions must be attained by the granting of an Area Variance by the PC.

1. Obstructions: No sign or sign structure shall be erected or maintained in any manner which constitutes a hazard to pedestrians or interferes with use of public right-of-ways, fire exits, traffic or street signs, or utility lines or easements.

2. Structural Integrity: All sign structures shall be constructed so as to safely carry the weight of the sign and reasonably withstand weather action. Every sign and sign structure, including signs and sign structures existing prior to the enactment of this ordinance, shall be maintained in good structural condition at all times and neatly painted and legible.

3. Location of Business Signs: A business sign may be erected and maintained on the premises where the respective business is located.

Businesses located off of Main Street may have a small directional sign on Main Street. All directional signs must conform to the Village Ordinances as determined by Council.

Businesses located outside of the Zoar Village limits that meet the State Tourists Oriented Directional Signs (TODS) program criteria may locate such a sign within the village limits subject to the following conditions:

- a) Signs must conform to all TODS criteria including physical appearance and dimensions;
- b) Signs may only be located along Main Street (State Route 212);
- c) A permit must be obtained from the Planning Commission and approved by Village Council;
- d) Businesses located less than 1-mile from Zoar shall be considered similar to businesses in the village, and shall not be charged a fee;
- e) Businesses located greater than 1-mile shall be subject to the full TODS fee. This fee, however, may be adjusted by the Planning Commission according to the business or other benefits received by the village;
- f) All signs shall be maintained by the owner with regards to appearance and safety;
- g) Where any TODS criteria conflicts with this ordinance, the Planning Commission shall decide on the resolution of any issue;
- h) If the TODS program ceases, all signs shall become subject to the relevant village ordinances.

4. Street: Directional, and Traffic Signs. No street, directional, or traffic sign shall be erected by any person except the Village of Zoar, County of Tuscarawas, or the State of Ohio.

5. Abandoned Signs: No person shall abandon any sign within the Village of Zoar.

6. Removal of Signs: The Village of Zoar may remove any abandoned sign, any sign which presents a hazard to pedestrian or vehicle traffic, or any other sign which fails to conform with the requirements of the ordinances of the Village of Zoar. If, after receiving written notice to remove, the owner fails to remove such sign within thirty (30) days. The cost of removal, which may be incurred by the Village, may be recovered from the owner of the premises from which the sign has been removed in the same manner as provided for the abatement of nuisances.

B. Residential and Agricultural District Restrictions:

The following shall apply to business signs in residential and agricultural land use districts:

1. **Sign Types:** Only fascia or free standing signs shall be permitted.
2. **Sign Illumination:** No signs illuminated internally or externally shall be permitted.
3. **Number of Signs:** Except for permitted incidental signs, only one sign shall be permitted for each dwelling.
4. **Sign Area:** Sign area shall not exceed six (6) square feet, nor exceed four (4) linear feet in width or length.
5. **Incidental Signs:** Each residence shall be entitled to two incidental signs no larger than six (6) inches by twelve (12) inches located at the main business entrance indicating, for example, whether the business is open or closed or any other pertinent information.

C. Historic Commercial District Restrictions:

The following shall apply to business signs in commercial and historic commercial districts:

1. **Sign Types:** Such signs may be free-standing , fascia, hanging signs mounted perpendicular to a wall, or roof mounted signs parallel to the business front wall.
2. **Sign Illumination:** No neon, flashing, or other moving electrical light signs shall be permitted.
3. **Number of Signs:** Except for permitted incidental signs, only one sign identifying the name and specific use of each business located on the premises shall be permitted.
4. **Sign Area:** For Fascia or roof mounted signs, the area of any sign shall be limited to 0.75 square feet for each lineal foot of building or business frontage. For Free-standing or wall mounted perpendicular signs, no area shall exceed fifteen (15) square feet nor shall any sign exceed five (5) linear feet in width or length.
5. **Incidental Signs:** Each business shall be entitled to two (2) signs no larger than two (2) square feet, located at the main business entrance, for information such as to business hours, services provided by the business, and other information concerning operation of the business.
6. **Free-standing Signs:** No freestanding sign structure shall consist of more than two (2) upright members, and no such members shall exceed six (6) inches in width by six (6) inches in depth and eight (8) feet in height. In no case shall any sign exceed eight (8) feet in height from ground level. No freestanding sign shall be erected within six (6) feet of any public right-of-way or any lot lines of adjacent property owners.
7. **Sign Location:** All signs shall refer only to businesses or activities carried on the premises where the sign is located, except as provided in Section VII, A, 4.

8. **Protected Non-conforming O. H. C. Signs:** All Ohio History Connection signs existing at the enactment date of this *Regulation* that do not meet the District Sign Standards established before this ordinance shall have non-conforming use status and shall be protected by the provisions contained in Section VIII of these *Regulations*.

D. Commercial Land Use District Restriction:

The following shall apply to business signs in the commercial land use district:

1. **Sign Types:** Such signs may be freestanding, fascia, hanging signs mounted perpendicular to a wall or roof mounted signs parallel to the business front wall.
2. **Sign Illumination:** No neon, flashing or other moving electrical light signs shall be permitted.
3. **Number of Signs:** Except for permitted incidental signs, only one sign identifying the name and specific use of each business located on the premises shall be permitted.
4. **Sign Area:** For Fascia or roof mounted signs, the area of any sign shall be limited to 0.75 square feet for each lineal foot of building or business frontage. For freestanding or wall mounted perpendicular signs, no area shall exceed fifteen (15) square feet nor shall any sign exceed five (5) linear feet in width or length.
5. **Incidental signs:** Each business shall be entitled to two (2) signs no larger than two (2) square feet, located at the main business entrance, for information such as to business hours, services provided by the business, and other information concerning operation of the business.
6. **Free-standing Signs:** No freestanding sign structure shall consist of more than two (2) upright members, and no such members shall exceed six (6) inches in width by six (6) inches in depth and eight (8) feet in height. In no case shall any sign exceed eight (8) feet in height from ground level. No free-standing sign shall be erected within six (6) feet of any public right-of-way or any lot lines of adjacent property owners.
7. **Sign Location:** All signs shall refer only to businesses or activities carried on the premises where the sign is located, except as provided in Section VII, A, 4.

E. Exempt Signs:

The following signs and sign structures shall not require permits, nor shall other restrictions provided herein apply, except as may otherwise be stated below:

1. **Construction Signs:** Only one construction sign per project shall be permitted. No such sign shall exceed six square feet in area. No construction sign shall be erected earlier than ten days prior to commencement of the project and the sign shall be removed no later than ten days following completion of the project or termination of the building permit, whichever is earlier.
2. **Directional Signs.**

3. **Government Traffic Signs:** Traffic, Street, or other signs installed by the Village of Zoar, the State of Ohio Department of Transportation, or the County of Tuscarawas.
4. **Building Signs:** Building signs not exceeding two (2) square feet in area.
5. **Political Campaign Signs.**
6. **Real Estate, Rental property, and Auction signs:** Provided that all such signs shall be located on the premises offered for sale or where the auction is to occur. No such signs shall be located nearer than three feet to any public right-of-ways or adjacent property line.
7. **Government Exemptions:** Any sign erected by the United States Government or any of its agencies or the State of Ohio or any of its agencies, or the Ohio Historical Society.
8. **The American Flag** or other national flags when appropriately displayed.

SECTION IX *Nonconforming Uses*

The lawful use of land or buildings existing at the adoption of this ordinance may continue although such use does not conform to the regulations specified by this for the district in which such land or building is located, subject to the following conditions and specifications.

- A. ***Discontinued Use:*** Any nonconforming use of land, buildings, or which has ceased by discontinuance or abandonment for two years shall thereafter conform to the provisions of this ordinance.
- B. ***Destroyed or Damaged Use:*** Any nonconforming building or structure which has been destroyed or damaged by fire, explosion, natural elements, act of God, or by a public enemy to the extent of sixty (60) percent or more of its valuation, shall thereafter conform to the provisions of this ordinance. Where more than forty (40) percent of the value of the building remains after such damage, such structure may be restored to the same nonconforming use as existed before such damage so long as restoration is essentially completed within two years from the date of the occurrence of the damage.
- C. ***Enlargement or Alteration:*** No nonconforming building or structure shall be enlarged or structurally altered except to make it a conforming building or structure.
- D. ***Movement Prohibition:*** No nonconforming use of a building may be moved to any other part or parcel of land upon which the same was conducted at the time of the adoption of this ordinance. A nonconforming use of a building existing at the time of the adoption of this ordinance may be extended throughout the building provided no structural alterations, except those required by ordinance or law, are made therein.
- E. ***Usage Change:*** The use of a nonconforming building may be changed only to a use conforming to the district in which the property is located.
- F. ***Ordinance Amendment:*** The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed by amendment to this *Regulation*.
- G. ***Construction Commencement:*** Enactment of these regulations shall not require alteration of plans, construction, or proposed use of any structure upon which actual construction began prior to the enactment of this ordinance, so long as construction has been diligently pursued. It shall be presumed that construction not completed within one year from granting of the initial building permit shall not constitute diligent pursuit of construction.
- H. ***Temporary Corrective Actions:*** Any building or structure that is damaged regardless of cause shall be allowed to make immediate temporary corrective actions. This includes such actions as putting a tarp on a roof, boarding up windows or other similar actions to minimize further damage until permanent repairs can be made. Temporary corrective actions shall be subject to a time limit of 120 days after which the owner shall be required to obtain a conditional use permit.

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.

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*.

During the construction process, if revisions to the project are requested, the Zoning Inspector may approve the change, or require the applicant to seek approval from the PC, or if applicable, the HPC. All project revisions shall be in writing and attached as an addendum to the original permit.

- B. **Residential Buildings and Structures:** For residential buildings, structures and accessory buildings, each application for a project permit shall include scaled drawings for foundations, floor plans for all floors, front, rear and side elevations. Each residential application shall include a copy of the Tuscarawas County Water and Sewer District Water Connection Permit and

Sanitary Sewer Building Connection Permit. For residential buildings not serviced by a sanitary sewer, each application shall include a treatment system approved by the Tuscarawas County Board of Health. The Zoning Inspector or the PC may request any such other information determined necessary to provide for the enforcement of these *Regulations*.

- 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, 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.

The Planning Commission is authorized under ORC 713.11(A) to issue a Conditional Use Permit for any defined zoning district or area in this ordinance. Land and building uses not specifically permitted shall be prohibited unless issued a conditional use permit. Permit applications shall be reviewed and issued with appropriate stipulated conditions by the PC after considering the criteria given in Section XII– Variances and Conditional Use Permits.

- F. **Expiration and Cancellation of a Conditional Use Permit:** If a Conditional Use Permit has an expiration date specified, the applicant must submit a permit renewal application at least sixty (60) days prior to the expiration date or the permit is automatically cancelled. The Zoning Inspector, after review and approval of the PC, may suspend or revoke a permit issued pursuant to these provisions whenever a permit is issued on the basis of a misstatement of material fact. All approvals, denials, suspensions, 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.
- G. **Occupancy Permit – Commercial Buildings:** For commercial buildings requiring a State of Ohio Commerce Department approval process, the Zoning Inspector shall be provided with a copy of the State of Ohio Commerce Department of Industrial Compliance Certificate of Occupancy Approval.

The Zoning Inspector shall take action to suspend or revoke an occupancy permit issued pursuant to these provisions whenever a permit is issued on the basis of a misstatement of material fact. All approvals, denials, suspensions, 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.

- H. **Subdivision Approval:** No person shall divide and convey any portion of any lot in existence on the date of passage of Ordinance 1986-21, or any complete lot owned by a person owning an adjacent lot or acreage, or any portion of acreage located within the village without obtaining approval of the Planning Commission. The Planning Commission shall approve such division so long as the division is not in violation of the provisions of the Zoning Regulations, Subdivision Regulations, and any applicable requirements imposed by the County of Tuscarawas, or Lawrence Township.
- I. **Parking:** Any person applying for a project or conditional use permit where there exists a business use of the property at the time of the permit, or where business use of the land is intended, shall include a plan for parking facilities.
- J. **Continuance of Existing Uses:** Nothing in this article shall prevent the continuance of the present occupancy or lawful use of any existing building, except as may be necessary for the safety of life and property.

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* appointed by the Mayor to 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 (1) 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 PC 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 included in the minutes of each case heard or considered by it. The reason for granting or

denying any application shall also appear in the minutes. Any party or other interested person shall be afforded the right to appear in person or by agent or attorney at any meeting or hearing.

- D. **Jurisdiction:** The PC shall review any order, requirement, decision, or determination, made by the Zoning Inspector. The PC shall also consider all applications for variances or 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 notification 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 notification to 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 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.

3. **Mayor and Village Council**

The powers and functions of the Mayor and Village Council with respect to administering this Ordinance shall comply with the relevant ORC provisions and as follows:

- A. **Amendments to these Regulations:** The Mayor shall refer ordinance amendment requests for study, review and comment to the PC. Council may then, after a public hearing, take action by ordinance to adopt or rescind such amendments to the original ordinance.
- B. **Amendments to the Official Zoning Map:** The Mayor shall refer ordinance amendment requests, including zoning district boundaries, to the PC for study, review and comment. Council may then, after a public hearing, take action by ordinance to adopt or rescind such amendments to the original ordinance. Any changes to the zoning map adopted by Council shall be entered on said map by the Mayor promptly following the effective date of the amended ordinance. This includes noting the ordinance number and effective date on the map.
- C. **Appointments:** The Mayor shall appoint three village citizens to serve as members of the Planning Commission. The Mayor shall make appointments to fill unexpired terms of members who have resigned, or to fill vacancies, or to reappoint members at the end of expired terms. The Mayor shall initiate action for the removal of any appointee for cause in accordance with ORC 733.35.

The Village Council shall appoint one of their members to serve on the Planning Commission.

- D. **Fees:** The Village Council shall, from time to time, establish a schedule of fees necessary to effectively administer and enforce the provisions of this ordinance for charges, expenses, and collection procedures for permits, appeals, variance applications, and other proceedings pursuant to this ordinance. No proceeding provided for by this ordinance shall be commenced until applicable fees are paid in full.
- E. **Advice of Consultants:** When requested by official action of the Village Planning Commission and the Village Council may employ qualified experts, such as a licensed architect or engineer, to consult with and assist with any and all matters set forth in the Subdivision or Zoning Regulations.

SECTION XII

Variances and Conditional Use Permits:

- A. **Application:** Upon application of an owner, or purchaser of land under a purchase agreement, the PC may permit conditional uses and variances from area restrictions in any district contained in these regulations as set forth below.
- B. **Area Variance:** An area variance may be granted by the PC in any district based on the review of the following criteria:
1. The proposed use of the land is one permitted in the particular district where the land is located but for restrictions contained in this ordinance that are imposed by setback, lot area, lot coverage, or structure or building size, area or location.
 2. Due to such restrictions practical difficulties exist in the location and/or construction of the proposed structure or building, or the restrictions result in the inefficient and wasteful utilization of land.
 3. The proposed building or structure and utilization of the land will be in harmony with the general purposes and intent of the zoning regulations and will not be detrimental to the public welfare.
 4. The variance shall be consistent with the development objectives of the district.
- C. **Conditional Use Permit:** A Conditional Use Permit may be granted by the PC in any district based on the review of the following criteria:
1. The intended use will not adversely impact the character of the immediate area surrounding the land that is the subject of the conditional use, nor will the use be detrimental to the public welfare.
 2. The proposed use is not a nuisance as defined by these regulations.
 3. The proposed use will be adequately supported by essential services such as highways, streets, electric, gas, water, police and fire protection, drainage structures, refuse disposal, and parking.
 4. The proposed use will not create excessive additional requirements at public cost for facilities and services;
 5. The proposed use will not involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic or traffic interference, outdoor storage of materials, smoke, fumes, glare, odors, radiation, lighting, visual, noise, or any other nuisances described in these regulations or the Ohio Revised Code.
 6. The application will be consistent with the intent and purpose of these regulations;

7. The proposed use will not result in the destruction, loss, or damage of natural, scenic or historic features;
8. Any proposed uses that are adjacent to residential areas may require additional screening requirements such as planting materials, fences, or other types or combinations of landscaping and structures.

The first time application for a Conditional Use Permit may be granted for up to five (5) years. Under special circumstances, such as a request from a lender, or a demonstrated history of compliance, a first time permit application or a permit renewal may be granted for a longer time. A permit renewal shall be based on the applicant's compliance with the permit conditions and any other conditions specified in the permit by the Planning Commission. A permit renewal is required by the applicant within ninety (90) days prior to the expiration date. A permit shall remain valid until such time that the Planning Commission issues a renewal regardless of the permit expiration date specified.

- D. **Restrictions:** In granting any variance or conditional use permit, the PC may prescribe conditions and safeguards deemed appropriate for the protection of the community and to accomplish the purposes of this ordinance. Violation of such conditions and safeguards, when made part of the terms under which the variance or conditional use permit is granted, shall constitute a violation of this ordinance, and is punishable as provided in Section XIII- Violations;
- E. **Notice:** Notice of a public hearing on an application for variance or conditional use permit shall be given at least 10 days immediately preceding the date of the public hearing, in a newspaper of general circulation in the Village and by certified mail to the owners of land abutting within 200 feet in all directions from the land affected by the variance or conditional use permit application. If there is no newspaper of general circulation, prior notice shall be provided at least 10 days before the hearing date at five public posting locations designated by the Village Council. A certified notice shall be sent to all real property owners as shown on the current tax duplicate at the address shown on said duplicate. It is not required that a return receipt be obtained. Notice is deemed complete upon mailing. The PC shall notify the Zoar Fire Department of each variance or conditional use permit application, and the nature of any variance or conditional use permit sought, to allow for consideration of the effects of such variance or conditional use permit on fire and safety risks. A public hearing for any variance or conditional use permit application shall include the following:
 1. *Presentation of the application*
 2. *Confirmation of the required public notice*
 3. *Testimony of all interested parties*
 4. *Deliberation by the PC*
 5. *Rendering of a decision by the PC (this may be continued for additional PC meetings).*

The PC Secretary shall notify the applicant in writing of the PC's decision within ten (10) days of the rendering of the decision.

SECTION XIII

Violations

- A. ***Citations:*** The Zoning Inspector shall issue a citation for any violation of any provision of this ordinance, or any order of the PC. Three different levels of action may be taken based on the gravity of the violation. The first level is a letter of Zoning Notice. The next two levels are: a Notice of violation-Warning; and a Notice of Violation- Order to Remedy. The gravity of the violation shall take into consideration: any health or safety issues, complaints received, the nature of the violation, whether the violation is repeated or first time, and any other pertinent considerations. A Zoning Notice, for example, would typically be issued where there are minimal safety concerns and where the owner is likely unaware of the zoning requirements. If no corrective action is taken within 30-days and the owner has not requested additional time, the Zoning Inspector shall confirm the violation and issue a Notice of Violation-Warning wherein the owner or resident is given up to 30-days to comply. If corrective action is still not taken, the Zoning Inspector may issue a Notice of Violation-Order to Remedy within an additional 30-days. The Zoning Inspector can adjust the time to comply with any citation based on the gravity of the violation, however, a maximum of 30-days shall not be exceeded unless circumstances are justified and approved by the Zoning Inspector. Failure to comply with an Order may subject the owner to further action by the village as described below in Section C.

All citations shall be in writing, specifying the nature of the violation or action and the applicable provisions of this ordinance or applicable orders of the Planning Commission. A Zoning Notice can be served in person, by regular mail, or by a village official i.e., the Mayor, the Zoning Inspector or a person designated by Village Council. All citations must be approved by the Zoning Inspector. Citation warnings or orders can be served by personal delivery by the Zoning Inspector to the violator or the landowner, or by certified U. S. Mail, return receipt requested, addressed to the violator or the owner of the land upon which the violation has occurred. If the violator or the landowner cannot be located, or if service of the citation by certified mail is returned unclaimed or refused, a copy of the citation may be posted in a prominent place on the land where the violation is located or a second mailing can be made by regular mail. Upon service of a citation for violation the Zoning Inspector shall decide whether any or all cited use of the land shall terminate. A violator or an owner of land upon which the cited violation has occurred may appeal such citation to the Village Council. Any appeal must be filed within thirty (30) days of service of the citation. Within sixty (60) days of the filing of an appeal the Village Council shall meet in public session to determine whether the acts set forth in the citation are violations of the ordinance or orders of the PC. At any hearing, parties of interest may appear in person, by agent or attorney. Upon the finding of a violation, the Village Council may order a cessation of the violation, termination of a permit including a Conditional Use permit, removal of structures or other items on the land determined to be in violation of this ordinance or orders of the PC, or any other actions reasonably designed to fairly achieve the purpose of this ordinance.

- B. ***Offenses and Penalties:*** It shall be a violation for any person to do any of the following:
1. Continue to use or occupy any land, building, or other structure, or continue to erect, construct, reconstruct, move, demolish, or structurally alter any building or any other structure, following service of a citation for violations, regardless of whether any such citation is later found to be valid or invalid.

2. Aid, assist, or participate with any person in erecting, constructing, reconstructing, moving, demolishing, or structurally altering any building or other structure in any way which is not permitted by the provisions of this ordinance, following service of a citation for violation, regardless of whether any such citations is later found to be valid or invalid.
3. Violate or fail to conform or comply with any conditions or safeguards set forth in any project permit or conditional use permit issued pursuant to this ordinance or establish in connection with the grant of variance.
4. Knowingly make any materially false statements of fact in an application for a project permit, variance, or conditional use permit or in any plans or other information submitted in connection with an application for a project permit, variance, or conditional use permit.
5. Being an owner of the land, building, or other structure, knowingly suffer or permit a violation of this ordinance to occur or exist on such premises after service of a citation for violation of this order.
6. Fail to comply with the decisions of the Village Council on any appeal of a zoning violation, variance, or building permit application, unless such decision has been reversed or otherwise modified by a court of competent jurisdiction.
7. Fail to provide any plans as required by Section IX.

For the above violations, the Zoning Inspector, legal representative of the Village, or any property owner damaged by such violation, may institute injunction, mandamus, abatement, or any other legal remedy provided under the law. Violations shall be a misdemeanor unless other available legal or equitable remedies are chosen to assure compliance with this ordinance. Nothing in this section shall be construed to prevent the Village of Zoar from utilizing any other available legal or equitable remedy to insure compliance with this ordinance.

Any person found to be in violation of any provisions of this *Regulation*, and upon conviction, shall be fined not less than \$15.00 and not more than \$500.00. Each day during which such act, violation, or omission shall be done, committed, omitted, or continued shall constitute a separate offense.

C. **Nuisances:** Whenever the existence of any nuisance defined in this ordinance, the Ohio Revised Code, or other village ordinances, on any real estate situated within the village shall come to the knowledge of the zoning inspector, it shall be his duty to cause a written citation issued in accordance with Section A. The citation shall identify such property and nuisance maintained thereon, and issued to the owner or person causing such nuisance. Such notice shall be served in the same manner as as described in Section A. The Zoning Inspector may require the immediate abatement of such nuisance. Any Notice of Violation-Order to Remedy shall further state that, in default of the immediate correction of the cited condition, the village may cause the same to be done, and charge the cost and expenses incurred in doing or having such work done, or improvements made, to the owner of the premises in question. The village shall have the right to contract with any person for performance of services necessary for the abatement and removal of such nuisance, and recover such costs from the owner of the premises. Failure by such owner to reimburse such costs incurred by the Village within sixty (60) days from the date of any written demand for reimbursement served upon the owner, shall entitle the Village to certify to the Tuscarawas County Auditor the amount of such costs, to then be placed upon the tax duplicate as an assessment to the real estate in question. Provisions for abatement of nuisances shall be in addition to any legal or equitable remedy available to the village or any property owner in the village affected by such nuisance.

SECTION XIV
Separability

The provisions of this ordinance are separable, and if any provision or part of this ordinance should be held invalid, such invalidity shall not affect the validity of the remainder of this ordinance.

SECTION XV
Effective Date

This ordinance, upon required notice and approval of council, shall become effective at the earliest period provided by law.

PASSED: 7/14/20

MAYOR: _____

Scott Gordon

ATTEST:

FISCAL OFFICER: _____

Patty Smith

APPENDIX A – Section I

General Architectural Standards – Effective in all Zoning Districts

A. Building and Structure Height: No building shall be constructed or altered to exceed thirty-five (35) feet in height. No structure shall be constructed or altered to exceed more than twelve (12) feet above the building height; nor shall such structures have a total area greater than twenty five (25) percent of the roof area of the building.

B. Setback: No buildings or structures, other than signs, sidewalks, driveways, fences, walls, or parking lots; erected after 1973 shall be located within thirty (30) feet from the front property line or within ten (10) feet from the rear or side property line, or within twenty (20) feet from any public right-of-ways. Any other exceptions to setbacks noted herein are contained in Section II of Appendix A.

C. Land Coverage: No more than twenty (20%) percent of the area of a lot or acreage shall be covered by a main building (excluding the area covered by porches, breezeways, unenclosed areas, and accessory buildings).

D. Dwelling Standards: Every dwelling hereafter erected in any district shall have a total living floor space of not less than fifteen hundred (1,500) square feet and a total ground floor area of not less than one thousand (1,000) square feet measured from the outside of the exterior walls. Such area shall include utility rooms, but exclude cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor area. No dwelling shall be constructed or altered to have the greatest length or width less than twenty-eight (28) feet or have a roof pitch of less than 5/12. Additional architectural standards for dwellings within the Historic Area District are contained the next Section II. No dwelling shall be constructed or altered without a potable water supply, and plumbing that includes at least one functional toilet connected to a sanitary sewer or a Tuscarawas County Health Department approved treatment system. All County Board of Health regulations shall be complied with at all times regardless if the dwelling is occupied or vacant.

E. Accessory Buildings: Accessory buildings may be erected in any district under the following conditions (*also see Section II if located in the historic district*):

1. The total floor square footage of any accessory buildings, measured at the greatest perimeter, located on any lot or acreage shall not exceed eighty (80) percent of the first floor area of the main building on the lot or acreage, excluding attached garages, porches, and breezeways. Where the main building on the lot or acreage is one story, any accessory buildings located on such land shall not exceed the height of the main building. Where the main building exceeds one story, no accessory building shall exceed eighty (80) percent of the height of the main building. Accessory buildings shall be enclosed on all sides and constructed from materials typically use to construct main dwellings.
2. Accessory buildings shall not encroach upon the front yard. Where the lot is a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting streets.

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 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."

APPENDIX A – Section II

Historic District Architectural Standards

No building or structure shall be erected, converted, enlarged, moved, demolished, reconstructed, or structurally altered except as in conformity with the rules and regulations set forth herein. Exceptions to these requirements may be granted by the HPC if the project permit applicant can demonstrate that the proposed building or architectural feature is similar to existing period Historic District buildings or architectural features.

Part I – New Construction

A. Development Objectives

1. Preserve the significant historic resources and rich cultural heritage of the village while providing for an efficient contemporary use;
2. The application of the standards for new construction shall be to maintain architectural unity, but not necessarily uniformity.

B. New Construction Requirements

1. The basic foundation for the main portion of the main building shall be rectangular with ratios of 1:1.35 to 1:1.6 with the longest dimension being parallel to the street upon which the property fronts. Nothing herein shall be construed to prohibit the construction of small additions to the main structure provided the same are permitted under all other provisions of these regulations.
2. The first floor of the main building basic foundation rectangle shall contain a minimum of one thousand (1,000) square feet, excluding porches, breezeways, garages and L shaped extensions. The first floor shall be entirely above grade.
3. All main buildings shall be full two-story structures, with the second floor exterior dimensions the same as the first floor basic foundation rectangle.
4. Chimneys shall be located entirely within the exterior walls.
5. Porches, full or partial, must be located on the front or rear only and must not exceed one story in height.
6. All roofs of both main and accessory buildings must be gable or modified gable - end roofs with pitches between 8/12 and 10/12 or equal to the pitch on the existing historic main or accessory building. No hip, mansard or other roofs are allowed.
7. There shall be no attic dormers or fake dormers.

8. Eave overhangs of both main and accessory buildings must be between 12 and 15 inches or equal in distance of the eave overhangs on the original existing historic main or accessory building.
9. Gable overhangs of both main and accessory buildings must be between 12 and 15 inches or equal in distance of the eave overhangs on the original existing historic main or accessory building.
10. Frontal setbacks for main building structures shall be in line with adjacent main building structures or in conformity with the frontal setback provisions of Appendix A, Section I of this ordinance. Porches shall not be considered part of the main building structure. Side and rear setbacks shall be the same as those delineated in Appendix A, Section I of these *Regulations*.
11. Any property upon which the main dwelling was constructed after 1898 and before ordinance 1998-17 (10/19/1998) shall be exempt from this Section except that the roof pitch of any addition or accessory building shall match that of the main building and eave gable overhangs must be between 12 and 16 inches.
12. For new construction or alterations of commercial buildings, there shall be no evidence of plumbing, heating, cooling, or any mechanical equipment protruding through the walls or roof of the building. All mechanical equipment venting through the roof must be contained and screened within a fake chimney or within an attic. A fence must screen all exterior ground level evidence of heating, air condition or other necessary mechanical equipment.
13. External architectural features, including lighting fixtures, shall emulate the appearance of similar period historic examples as closely as possible. Materials for the project shall be selected that most closely resemble the original period appearance of existing similar historic buildings.
14. Where period materials are not available or within the owner's means to obtain, alternative materials may be used as approved by the HPC. For example, metal roofing was never used on residential buildings in Zoar, thus, would not be acceptable for any new houses in the Historic District. For new houses or accessory buildings in the Historic District, a composite roofing material that closely resembles shakes, slate or tile may be acceptable. New fiberglass or composite shingles or similar materials which have the appearance of period roofing, however, may be acceptable; likewise, vinyl siding was not used on historic buildings in Zoar and would not be acceptable. Milled cedar or other rot resistant wood siding would be desirable; however, some types of alternative composite materials such as cement/fiberglass clapboard that closely resembles original period siding may be acceptable. Accessory buildings must use original materials where possible or use a replacement composite material that is similar in appearance.
15. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize similar buildings shall be emulated. New additions, exterior alternations, or

related new construction shall not destroy historic materials that characterize the property.

16. New additions, exterior alternations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the historic integrity of the property and its environment.
17. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Part II – Preservation, Rehabilitation, Restoration and Reconstruction

A. Development Objectives

1. Preserve the significant historic resources and rich cultural heritage of the village while providing for an efficient contemporary use;
2. Facilitate the rehabilitation of historic properties by: (1) encouraging the use or reuse of original historic period materials; (2) restore or replace external historic architectural features as closely as possible to the original appearance; (3) where new replacement materials must be used, select materials that most closely resemble the original period appearance.
3. One of the highest priorities for rehabilitation is to protect the original historic structure from further damage and to bring it closer to its original state.

B. Rehabilitation Requirements

The Standards for Rehabilitation (codified in 36 CFR 67 for use in the Federal Historic Preservation Tax Incentives program) address the most prevalent treatment. "Rehabilitation" is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values."

Initially developed by the Secretary of the Interior to determine the appropriateness of proposed project work on registered properties within the Historic Preservation Fund grant-in-aid program, the **Standards for Rehabilitation** have been widely used over the years--particularly to determine if a rehabilitation qualifies as a Certified Rehabilitation for Federal tax purposes. In addition, the Standards have guided Federal agencies in carrying out their historic preservation responsibilities for properties in Federal ownership or control; and State and local officials in reviewing both Federal and nonfederal rehabilitation proposals. They have also been adopted by historic district and planning commissions across the country.

The intent of the Standards is to assist the long-term preservation of a property's significance through

the preservation of historic materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and interior of the buildings. They also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. To be certified for Federal tax purposes, a rehabilitation project must be determined by the Secretary to be consistent with the historic character of the structure(s), and where applicable, the district in which it is located.

As stated in the definition, the treatment "rehabilitation" assumes that at least some repair or alteration of the historic building will be needed in order to provide for an efficient contemporary use; however, these repairs and alterations must not damage or destroy materials, features or finishes that are important in defining the building's historic character. For example, certain treatments--if improperly applied--may cause or accelerate physical deterioration of the historic building. This can include using improper re-pointing or exterior masonry cleaning techniques, or introducing insulation that damages historic fabric. In almost all of these situations, use of these materials and treatments will result in a project that does not meet the Standards. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure will fail to meet the Standards.

The requirements in Part I (B) (14) for new construction shall also apply to rehabilitation. Additionally, the use of vinyl siding would only be permitted as a stop gap measure to protect the underlying historic structure until a more acceptable siding could be used.

C. The Secretary of the Interior's Standards for the Treatment of Historical Properties

The Secretary of the Interior is responsible for establishing standards for all programs under Departmental authority and for advising Federal agencies on the preservation of historic properties listed in or eligible for listing in the National Register of Historic Places.

PART 68--THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

Sec.

68.1 Intent.

68.2 Definitions.

68.3 Standards.

Authority: The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.); EO 11593, 3 CFR 75 (1971); sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Sec. 68.1 Intent.

The intent of this part is to set forth standards for the treatment of historic properties containing standards for preservation, rehabilitation, restoration, and reconstruction. These standards apply to all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund.

Sec. 68.2 Definitions.

The standards for the treatment of historic properties will be used by the National Park Service and State historic preservation officers and their staff members in planning, undertaking, and supervising grant-assisted projects for preservation, rehabilitation, restoration, and reconstruction. For the purposes of this part:

(a) Preservation means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(b) Rehabilitation means the act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

(c) Restoration means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-

required work to make properties functional is appropriate within a restoration project.

(d) Reconstruction means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Sec. 68.3 Standards.

One set of standards--preservation, rehabilitation, restoration, or reconstruction--will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, the extent of documentation available, and interpretive goals, when applicable. The Standards will be applied taking into consideration the economic and technical feasibility of each project.

(a) Preservation.

(1) *A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.*

(2) *The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial [[Page 3601]] relationships that characterize a property will be avoided.*

(3) *Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.*

(4) *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

(5) *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

(6) *The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.*

(7) *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

(8) *Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.*

(b) Rehabilitation.

(1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

(2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

(3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.

(4) Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(9) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) Restoration.

(1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.

(2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period will not be undertaken.

(3) Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be

physically and visually compatible, identifiable upon close inspection, and properly documented for future research.

(4) *Materials, features, spaces, and finishes that characterize other historical periods will be documented prior to their alteration or removal.*

(5) *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.*

(6) *Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.*

(7) *Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.*

(8) *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

(9) *Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

(10) *Designs that were never executed historically will not be constructed.*

(d) Reconstruction.

(1) *Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.*

(2) *Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.*

(3) *Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.*

(4) *Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color, and texture.*

(5) *A reconstruction will be clearly identified as a contemporary re-creation.*

(6) *Designs that were never executed historically will not be constructed.*