

Zoning Ordinance – 2018-05-11

Village of Zoar, Ohio

Effective date: _____

WHEREAS, since enactment of Zoning Ordinance 2018-05, additional revisions were necessary in order to clarify and facilitate the zoning requirements. The following changes are proposed:

1. Section II, starting on page 5 (Definitions), the definitions of “Bed and Breakfast Inn” and “Fulltime Resident” were modified; new definitions were added for “Residence” and “Resident”; and the definition of “Carport” was deleted.
2. Section IV, page 20 (Land Use Districts), a statement was added that prohibits any rental of a dwelling where the operator is not on site.
3. Section VII, page 30 (Nuisances), item #30 was modified to include *commercial buildings*.
4. Section X, page 37 (Permits and Approvals), projects must be completed within one year or granted and extension by the Zoning Inspector;
5. Section XI, page 39, new statement added to clarify zoning inspector’s right to enter property.
6. Section XIII, Page 44 and 45; defines three corrective action levels for zoning violations.
7. Appendix A, page 48, Section I, subsection E.1, a sentence was added to modify accessory building requirements.

NOW THEREFORE, be it ordained by the Village Council of Zoar, Ohio that the Zoning Regulations shall be enacted by this Ordinance, and that Ordinance 2018-02 shall be repealed.

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

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

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

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

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

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

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

~~**Carport:** A structure that is open to the weather on at least two sides intended for the use of sheltering motor vehicles. A carport shall be deemed to be an "enclosed parking area".~~

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, hotels, and boarding and lodging houses.

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

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

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

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

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

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

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

Fulltime Resident: A new resident for the first year, and any resident who resides in a dwelling within the Village during at least 270-183 days in a consecutive twelve month period of a calendar year; and maintains no residency for voting purposes in any other political subdivision other than Zoar 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.

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.

SECTION IV

Land Use Districts

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

- R – Residential
- HC – Historical 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.

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

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 actual construction or demolition described in a project permit has not commenced within ninety (90) days from the issuance of the project permit, such permit shall expire. The Zoning Inspector shall notify in writing the permit applicant of such expiration.~~ If the work described in any project permit has not been substantially completed within ~~two (2) years~~ one (1) year from the date of issuance of the permit, such permit shall be cancelled by the Zoning Inspector shall provide a written notice of incompleteness ~~Written notices of such cancellation shall be given~~ 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, 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 shall 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

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 shall be established consisting of the Mayor, one member of the Village Council elected thereby to serve for the length of his/her elected term, and three citizens of the Village 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.

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

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 ~~Zoning Board~~ 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 and 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, ~~to be~~ *and* issued to the owner or person causing such nuisance. Such notice shall be served in the same manner as ~~citations for zoning violations~~ *as described in Section A. Notice* The Zoning Inspector ~~may~~ *shall* require the immediate abatement of such nuisance. ~~Such notice~~ *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

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.