

**PART ELEVEN - PLANNING AND ZONING CODE**

**TITLE ONE - Zoning Administration**

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- Chap. 1103. User Manual and Definitions.

**TITLE THREE - Administration**

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**CODIFIED ORDINANCES OF NEWBURGH HEIGHTS  
PART ELEVEN - PLANNING AND ZONING CODE**

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- Chap. 1101. Fees, Validity, Enforcement and Penalties.
- Chap. 1103. User Manual and Definitions.

**CHAPTER 1101**

**Fees, Validity, Enforcement and Penalties**

- 1101.01 Fees.**
- 1101.02 Validity.**
- 1101.03 Enforcement and penalties.**

**CROSS REFERENCES**

- Zoning amendments - see P. & Z. Ch. 1121
- Buildings to conform to zoning regulations - see P. & Z. 1121.03
- Building permits and fees - see BLDG. Ch. 1313
- Dangerous structures - see BLDG. Ch. 1333

**1101.01 FEES.**

(a) General. The application for a building permit or occupancy permit shall be accompanied by a fee payable to the Village. A schedule of such fees shall be made available through the Village and may be altered or amended only by Council. All fees shall be paid in full before any application is reviewed or any permit or certificate is issued.

(b) Copy Fees.

- (1) The Clerk-Treasurer is hereby authorized to distribute to any person upon request a mimeographed copy of the "Planning and Zoning Code" of the Village.
- (2) The Clerk-Treasurer is authorized to charge two dollars (\$2.00) for each copy so distributed; such sums so collected to be deposited in the General Fund. (Ord. 2017-49. Passed 12-5-17.)

**1101.02 VALIDITY.**

(a) General. Zoning permits, or certificates of occupancy issued on the basis of plans and applications approved by the Building Commissioner authorize only use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a punishable violation of this Planning and Zoning Code.

(b) Required Permits.

- (1) Building Permits. No building or structure shall be constructed, erected, reconstructed, repaired, structurally altered, enlarged or moved, and no excavation for a foundation shall be made, unless and until a building permit therefor has been secured first from the Building Commissioner.
- (2) Occupancy Permits. In the following instances, no occupancy, use or change of use of any premises shall take place unless and until an occupancy permit has first been secured from the Building Commissioner:
  - A. As the final inspection permit following, or in connection with, the issuance of a building permit for the construction, addition to or alteration of any building, or in all instances when building permits are required by applicable law.
  - B. Upon changes of use of premises.
  - C. Following the issuance of a variance or special use permit by action of the Board of Zoning Appeals, when confirmed, modified or allowed by Council, by ordinance of Council, or by the order of a court of general jurisdiction after all appellate remedies have been exhausted.
  - D. When a building or parcel of land has been completed and complies with the application for a building permit, and all applicable State or Village regulations.
  - E. Upon changes in the use of vacant land.
  - F. Upon changes in the use of any nonconforming use.

(c) Permit Applications.

- (1) An application shall be required for the issuance of building and occupancy permits. Such applications shall contain the following:
  - A. The street address of the property.
  - B. A legal description of the property and the permanent parcel numbers of the lots included in the property.
  - C. The existing use or uses to which the premises or the proposed building is devoted as well as the proposed use or uses.
  - D. The zoning district of the property.
  - E. The name, address, phone number, email and fax number if applicable of the owner, architect and contractors. In the case of work on a single project which has been determined by the Building Commissioner to have a gross value of fifty thousand dollars (\$50,000) or more and is being performed for or by corporations or partnerships, a statement shall be filed with the application listing the names and addresses of all directors and officers, as well as the names and addresses of all shareholders or principals having a ten percent or greater interest in such firm.

- (2) Such application shall be accompanied by the following information when deemed applicable by the Building Commissioner. All such information shall be submitted in duplicate form and in a 1:1 scale where applicable:
- A. Site context plan. On a building base map, providing context within a larger area by showing streets, buildings and landmarks. The actual site should be outlined on this plan.
  - B. Site plan. Indicating existing and proposed buildings, streets, lot lines, location and number of parking spaces, driveways, walkways, curb cuts, landscaped areas, lighting, fences, sidewalks, signs, or other important features at or near the project site; drawn to scale and showing all relevant dimensions and noting such information as drains, paving materials, etc.
  - C. Landscape plan. Indicating grading, drainage, plant materials, roadways, walkways, and site furnishings (seating, lighting fixtures, etc.)
  - D. Building elevations. For all sides of the building showing details, materials, colors, heights, types of illumination, signs, etc. (Section studies should be provided, where needed, to clarify understanding of special spaces and their effects on the elevations.) Drawings should be to scale.
  - E. Typical floor plans. Which clarify and justify the elevations and exterior changes proposed.
  - F. Master signage plan. Including basic sign parameters as to the location, size, style, illumination, height and color of proposed signs as well as all existing signs on the property. It shall include all information necessary to determine the maximum amount of signage permitted by Code and the amount of signage proposed for current and future tenants of a multi-tenant facility.
  - G. Color photographs. Showing the site in the context of adjoining properties.
  - H. Renderings. Ground line perspectives or "above view" isometric or axonometric for large projects or new construction.
  - I. Sample of materials. Showing proposed colors and textures.
  - J. Utilities. Evidence of adequacy of all required utilities and services.
  - K. Dwelling units, employees and/or seating capacity. Number of dwelling units in proposed buildings or existing buildings to be retained, by number of bedrooms and by any special populations to which occupancy is to be restricted. Proposed number of permanent employees to be accommodated on the property, including existing employment proposed to be retained, by shift and by full-or part-time status. The proposed seating capacity of public assembly areas by the number of seats installed or which could be accommodated.
  - L. Hazardous materials. Descriptions of any known hazardous materials contamination of the site, including underground storage tanks. Description of any hazardous wastes to be generated by the proposed project and of plans for disposal thereof.
  - M. Traffic analysis. Professional analysis of estimated vehicular trips generated by each phase of completed development per day and during AM and PM peak hours, the expected impact on existing traffic loads in the area, and road construction or traffic control measures needed to accommodate the new traffic.
  - N. Phasing. Chronological schedule of expected beginning and ending dates for proposed stages of construction and improvement of all structures, common or public areas, circulation ways, parking, loading, and service areas, and utilities, showing the interim use and maintenance of areas not under construction in each phase.

(d) Restorations.

- (1) Nothing in this Code shall prevent the restoration of a building wholly or partly destroyed by fire, explosion, act of God or act of the public enemy, subsequent to the passage of this Ordinance, or prevent a change of such existing use under the limitations thereof.
- (2) Nothing in this Code shall prevent the straightening or restoring to a safe condition, any building or any part thereof declared unsafe by the Building Commissioner, or other proper Municipal Officers.
- (3) Nothing in this Code shall prevent the restoration of a wall declared unsafe by the Commissioner of Buildings.

(e) Architectural and Plan Review.

- (1) For those projects which require exterior architectural review, the Building Commissioner shall submit copies of the application, including all applicable elements of subsection (c)(2) hereof to the Planning Commission for review and approval.
- (2) In connection with any building permit application or occupancy permit application with respect to which the Building Commissioner has required the submittal of any of the plans or elements of subsection (c)(2) hereof, the Building Commissioner shall submit copies of said application, including all applicable elements of subsection (c)(2) hereof, to the Planning Commission for review and approval.
- (3) Within sixty (60) days from the date of the first Planning Commission meeting in which the application is considered, the Planning Commission shall either approve, approve with conditions, or disapprove the project. Failure of the Planning Commission to act within the time limits shall be considered as though the referral is recommended. The Planning Commission may extend the time limits through a request to Council.
- (4) With respect to any application referred to the Planning Commission, the Building Commissioner shall not issue a permit without the approval in writing from the Planning Commission.
- (5) The Planning Commission may authorize the Building Commissioner to administratively approve application for relatively minor projects (such as signs or fences) or for minor changes to plan previously approved or conditionally approved by the Planning Commission. The Planning Commission may approve design guidelines which shall be followed by the Building Commissioner when making such administrative approvals.

(f) Zoning Permit Approval. The Building Commissioner shall either approve or disapprove the application in conformance with the provisions of this Code. All zoning permits shall, however, be conditional upon the commencement of work within one year. One copy of the plans shall be returned to the applicant by the Building Commissioner, after the Building Commissioner shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of plans, similarly marked, shall be retained by the Building Commissioner. The Building Commissioner shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the activity is in conformance with the provisions of this Planning and Zoning Code.

(g) Zoning Permit Expiration. If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire. It shall be revoked by the Building Commissioner and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been substantially completed within two and one half (2-1/2) years of the date of issuance thereof said permit shall expire and be revoked by the Building Commissioner, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or an extension granted.

(h) Certificate of Occupancy. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of occupancy shall have been issued therefor by the Building Commissioner stating that the proposed use of the building or land conforms to the requirements of this Code. The issuance of a use certificate in no way relieves the recipient from compliance with the requirements of this Code and other regulations. (Ord. 2017-49. Passed 12-5-17.)

### 1101.03 ENFORCEMENT AND PENALTIES.

(a) General.

- (1) Hereafter, no land in the Village shall be used or occupied, and no structure shall be constructed, erected, moved, repaired, structurally altered, enlarged, leased, extended or reconstructed, for any purpose except as permitted by this Code and in conformity with the regulations herein established for the district in which such land or structure is located.
- (2) The primary duty of administering and enforcing the provisions of this Code is hereby conferred upon the Building Commissioner with the assistance of such other persons as he or she may direct.

(b) Enforcement by the Building Commissioner.

- (1) The Building Commissioner is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purpose of enforcing the provisions of this Code. Prior to seeking entry to any property or structure for such examination or survey, the Building Commissioner shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Building Commissioner shall request the assistance of the Law Director in securing a valid search warrant prior to entry.
- (2) Subsequent to his/her determination that work is being done contrary to this Code, the Building Commissioner shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Building Commissioner, shall constitute a punishable violation of this Code.
- (3) The Building Commissioner may issue a revocation notice to revoke a permit or administrative approval which was issued contrary to this Code or based upon false information or misrepresentation in the application.
- (4) The Building Commissioner shall maintain a record of zoning permits and certificates of occupancy, and copies shall be furnished, upon request and upon payment of the established fee, to any person.

(c) Non-Issuance of Permits.

- (1) The Building Commissioner shall issue no building or occupancy permits for any building, structure, use or change in use of land or premises in violation of this Code.
- (2) The Building Commissioner shall issue no building permit or certificate of occupancy for any building, structure, use or change of use during any period in which an ordinance or other measure which would forbid the action authorized under such permit is pending before Council, has been formally recommended to Council by the Planning Commission, or is subject to an initiative petition, which has been filed with the Board of Elections.
- (3) If a building or occupancy permit is refused, the Building Commissioner shall send the notice of refusal to the address shown on the application.

(d) Conflicts with the Building Code. Whereas a certain Building Code has been adopted by ordinance and approved by Council, such Building Code as it presently exists, or as the same may hereafter be amended, shall continue to remain in full force and effect, save and except that this Planning and Zoning Code shall supersede all rules of the Building Code, which are in conflict with the terms and provisions of this Planning and Zoning Code.

(e) Separability. The sections, subsections, districts and building lines forming parts of, or established by this Code and the several parts, provisions and regulations thereof are hereby declared to be independent sections, subsections, districts, buildings lines, areas, limitations, provisions and regulations; and the holding of any such section, subsection, district, building line, part, provision or regulation thereof to be unconstitutional, void or ineffective for any cause, shall not effect nor render invalid any other section, subsection, district, building line, part, provision or regulation thereof or hereof.

(f) Violations. No person shall locate, erect, construct, reconstruct, enlarge, change, repair, structurally alter, occupy or use any building or land in violation of any provision of this Code, or any amendment thereto. The owner, owners, part-owner, lessee, or other person in lawful possession of any building or premises or part thereof, where anything in violation of this Code shall be placed or shall exist, or be maintained and any architect, builder, contractor, agent or other person who may be employed to assist in the commission of any such violation, and all persons or corporations who shall fail to comply therewith or with any requirements thereof, or who shall build in violation of any detailed statement of plans submitted and approved thereunder, shall for each and every violation or noncompliance, be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), and each day during which such violations shall continue shall constitute a separate offense.

(Ord. 2017-49. Passed 12-5-17.)

## CHAPTER 1103

### Use Manual and Definitions

**1103.01 User Manual.**

**1103.02 Definitions.**

**1103.03 Conditional use application.**

**1103.04 Variance request application.**

**1103.05 Zoning amendment application.**

### CROSS REFERENCES

General Code definitions - see ADM. 101.02

#### 1103.01 USER MANUAL.

(a) The Village of Newburgh Heights Planning and Zoning Code is a reference document. It is not intended to be read from cover to cover, but is instead organized so that a user may look up only the specific information as needed. The list of chapters and sections in the table of contents is, therefore, very important, as are the section listings at the beginning of each chapter.

(b) A separate manual for application procedures can be made available to applicants upon request. (Ord. 2017-49. Passed 12-5-17.)

#### 1103.02 DEFINITIONS.

(a) General. The following is a list of general terms used throughout this Code to assist in its interpretation.

(b) Interpretation. As used in this Zoning Ordinance:

- (1) "Shall" is to be interpreted as mandatory and not directory; the word "may" is considered permissive.
- (2) "Used for" or "occupied for", as applied to any lot or structure, shall be construed to include "arranged for", "designed for", "designated for", "intended for", and "maintained for".
- (3) All words in the present tense include the future and the singular includes the plural unless the content clearly indicates the contrary.
- (4) Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.
- (5) "Board" means Board of Zoning Appeals; "Village" means Village of Newburgh Heights, Ohio; "Commission" means Planning Commission; "Commissioner" means Building Commissioner, "Engineer" means Village Engineer.
- (6) "Code" means the Planning and Zoning Code; "Ordinance" or "Ordinances" means the Codified Ordinances of Newburgh Heights.

(7) "Lot" shall include "parcel", "piece", "remainder", the word "building" shall include any structure of every kind.

(8) "Residence" and/or "residential" refers to any use associated with a dwelling.

(c) Definitions. The following words or phrases shall have the meanings ascribed to them herein unless the context specifically requires a different meaning:

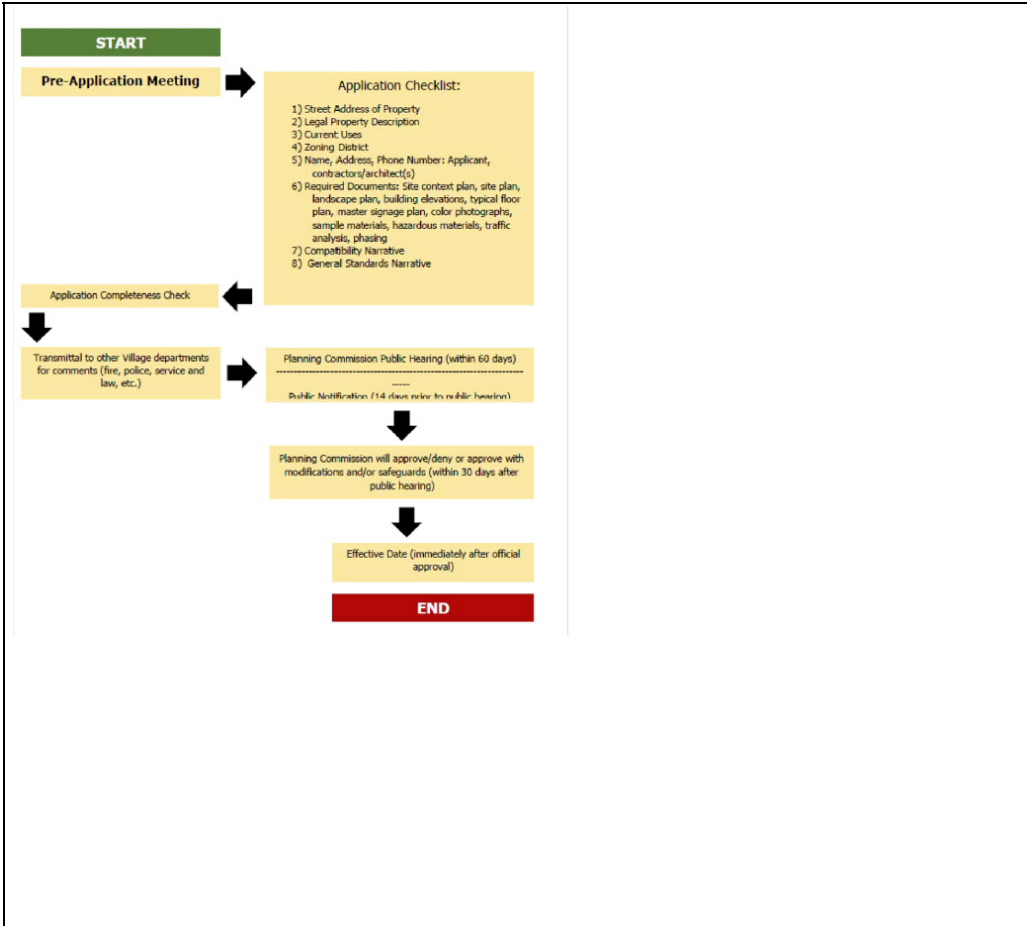
- (1) "Abut" or "Abutting" means having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.
- (2) "Accessory Use" means a use that is incidental and subordinate to that of the main building or use of land and that is located on the same lot and under the same ownership in all respects.
- (3) "Alteration" means, as applied to a building or structure, a change or rearrangement in any structural part, any service equipment, or any means of egress; or an enlargement, whether by extending on a side or by increasing in height; or adding a dividing wall; or the moving from one location or position to another.
- (4) "Antenna" means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.
- (5) "Apartment" means a structure containing three (3) or more dwelling units.
- (6) "Arbor" means an enclosure of closely planted trees, vines, or shrubs which are either self-supporting or supported on a framework; also, the supporting framework itself.
- (7) "Art Gallery" means a room or building for the display or sale of works of art.
- (8) "Athletic Fields" means an area where community members and organized sporting events and teams can practice and play various sports, which are generally open-air and include soccer fields, baseball diamonds, basketball courts, etc.
- (9) "Bar" means an establishment in which alcoholic drinks or refreshments are served, but can often include food services as well.
- (10) "Basement" means that portion of a building below the first or ground-floor level and having less than four (4) feet of clearance from its ceiling to the average finished grade of the building perimeter.
- (11) "Bed and Breakfast" means a guest house or small hotel offering sleeping accommodations and a morning meal.
- (12) "Brewery" means a place where beer is made commercially on site, but can sometimes include a restaurant or other similar services to the public.
- (13) "Buffer" means a strip of land, fence, or border of trees, etc., between one use and another, which may or may not have trees and shrubs planted for screening purposes, designed to set apart one-use area from another.
- (14) "Building" means any structure having a roof supported by columns or walls designated, intended, or used for the housing or enclosure of persons, animals, or chattels.
- (15) "Building Code" means the various codes of the Village that regulate construction and require building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the Planning and Zoning Code pertaining to building and building regulation.
- (16) "Building Height" means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.
- (17) "Building Material Sales" means an establishment that participates in the sale of goods and materials which are commonly used in the construction industry, which often includes the storage of such materials on site as well.
- (18) "Campground" means a place used for camping, especially one equipped with cooking grills, water, and bathrooms, but this can also often include an RV park.
- (19) "Cannabis" means the dried preparation of flowering buds or portion of this plant which can be used to produce hemp fiber or used in the production of psychotropic drugs, infused products, and medical uses.
- (20) "Child Day Care Center" means any facility operated for the purpose of providing care, protection and guidance to ten (10) or more individuals during only part of a twenty-four (24) hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four (24) hour period.
- (21) "Civic Building" means a structure that is meant to be occupied with a municipal purpose to serve the public.
- (22) "Commercial Vehicle" means any vehicle with current state-issued license plates attached, with the designation "truck" or "commercial", or any vehicle used for commercial purposes or in a commercial enterprise, which vehicle is marked or identified by lettering, symbols or signs relating to such commercial purpose or enterprise, or, if not so identified, has attached thereto scaffolding, ladders, plows, cranes, hoists, backhoes or other tools and devices that are being used for such commercial enterprise.
- (23) "Community Garden" means any piece of land gardened by a group of people, utilizing either individual or shared plots on private or public land.
- (24) "Conditional Use" means a use permitted in a district other than a use permitted by right which is allowed only under certain conditions and requiring a conditional use permit and approval of the Commission.
- (25) "Density" means the number of structures or specifically dwelling units per a specified area; typically, per acre.
- (26) "Dental Office" means a facility that provides specialized services for oral, jaw, and general dental needs.
- (27) "Dish Antenna" means a dish-shaped, generally parabolic or spherical structure and its appurtenances designed or used to receive or transmit signals from or to artificial earth satellites or earth-based stations. A dish antenna is an accessory structure.
- (28) "Dispensary" means a place where something is dispensed, including medicines and where patients or consumers can access cannabis in a legal and safe manner.
- (29) "Drinking Establishment" means an establishment or part of an establishment used primarily for the sale or dispensing of liquor by the drink.
- (30) "Drive-Thru" means a window attached to a building that allows customers to receive food, services, money, etc. without having to leave their vehicle.
- (31) "Dry Cleaning" means a service in which clothing is cleaned with an organic solvent, without using water.
- (32) "Duplex" means a dwelling that is suited for two (2) families to occupy separate units and is typically shared side-by-side within the same overall structure.
- (33) "Dwelling" means any building or part thereof designated, used, or intended to be used by people for living or sleeping.
- (34) "Dwelling Unit" means an enclosed space within a building having a unique entrance and consisting of one or more living and/or sleeping rooms arranged contiguously with cooking and sanitary facilities which are not accessible from a common or public area, maintained or designed to be occupied by a single-family.
- (35) "Easement" means the authorization by a property owner for the use by another, and for a specified purpose, of a designated part of his or her property.
- (36) "Factory Built" means a dwelling that is typically assembled in factories and then transported to sites of use, also commonly known as

mobile homes.

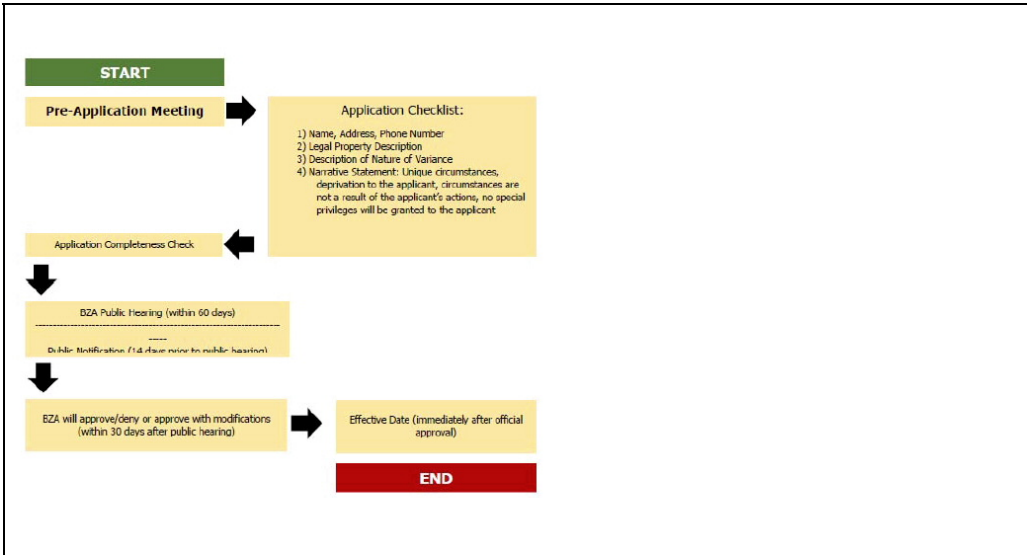
- (37) "Family" means a person living alone, or two or more persons living together as a single housekeeping unit, in a dwelling unit, as distinguished from a group occupying a boarding house, motel, hotel, fraternity or sorority house.
- (38) "Farming" means any cultivation of land by means of growing crops or by raising livestock.
- (39) "Fence" means an enclosure or barrier, such as wooden posts, wire, iron, etc., as used as a boundary, means of protection, privacy screening or confinement, but not including hedges, shrubs, trees, or other natural growth.
- (40) "Financial Services" means a use that provides professional services involving the investment, lending, and management of money and assets.
- (41) "Fitness Center" means a building which is typically fully enclosed that houses exercise equipment for the purpose of physical exercise.
- (42) "Floor Area" means the square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. Floor area shall not include porches, garages, or space in a basement or cellar.
- (43) "Garage, Private" means an accessory building or portion of the principal building designed, intended or used for the housing or storage of motor vehicles and other personal property associated with a residential use, and with no facilities or mechanical service or repair of a commercial or public nature.
- (44) "Garage Sale" means the sale or offering for sale to the general public of over five (5) items of personal property on any portion of a lot in a residential zoning district, whether within or outside any building. Sales of programs and food and beverage items at school athletic events shall not be deemed to constitute garage sales.
- (45) "Gazebo" means a freestanding structure (similar to a detached open patio cover), with a pitched roof design, having a maximum height of fifteen (15) feet, and a maximum area of 600 square feet, and shall be designed for recreational use only and not for habitation.
- (46) "Golf Course" means a large open area that is landscaped to accommodate the playing of golf and which typically includes structures to house food services, cart rentals, and sometimes a driving range.
- (47) "Grade" means the mean elevation of the ground adjoining a main building or structure on all sides. For the purposes of determining side yard requirements, grade level shall be interpreted as the elevation of ground adjoining the structure at the front corner of the structure on the side for which the side yard is being determined. If a garage is attached in front of the main structure, the elevation at which the ground meets the main front facade of the building, or a point directly below the main front facade, on the side for which the side yard is being determined shall be utilized.
- (48) "Greenhouse" means a glass building in which plants are grown that need protection from cold weather.
- (49) "Grocery Store" means a building in which people can purchase food and drink items for their needs and these establishments often include a pharmacy and/or bank.
- (50) "Group Living Facility" means an assisted living residence or facility that cares for people with disabilities or those whom cannot choose not to live independently.
- (51) "Home Occupation" means any occupation, profession or activity which is clearly incidental and secondary to the use of the premises for dwelling, and which is carried on wholly within a main building or accessory building by a member of the family residing on the premises. No stock in trade is kept or commodities sold. Such home occupation shall not give rise to a nuisance of any kind and shall not be otherwise detrimental to the district. A home occupation shall not be interpreted to include auto repairing, antique shops, sign painting, hotels, or restaurants.
- (52) "Hospital" means an institution providing medical and surgical treatment and nursing care for sick or injured people, which these facilities are typically larger in size and generally contain an emergency room.
- (53) "Immediate Care Facility" means a medical care building that accommodates patients who need to see a doctor now, but who do not have a life-threatening condition warranting an emergency room visit.
- (54) "Kennels" means a building whose purpose is to house small animals for means of adoption or rehoming, which can typically include dogs, cats, etc.
- (55) "Landscaping" means the area within the boundaries of a given lot that consists of planting materials, including, but not limited to trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.
- (56) "Loading Area" means an off-street space on the same lot with a building or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.
- (57) "Lot" means an area of land described in documents properly recorded in the records of the Cuyahoga County Recorder, being a unique permanent parcel number.
- (58) "Lot Area" means the horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.
- (59) "Lot, Corner" means a lot abutting upon two or more streets at their intersection.
- (60) "Lot Coverage" means the ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.
- (61) "Lot Depth" means the average distance to the rear line of a lot as measured in the general direction of the side lot lines from the public or private right-of-way upon which said lot fronts.
- (62) "Lot Frontage" means the distance between the side lot lines measured at the right- of-way.
- (63) "Lot Line" means the boundary of a lot separating it from adjoining land, public or private.
- (64) "Main Building or Structure" means a building, structure or space occupied by the chief use or activity on the premises.
- (65) "Medical Marijuana" means marijuana as recommended by a doctor in the treatment of a medical condition.
- (66) "Mini-Storage" means a building in which storage spaces, such as rooms, lockers, containers, and/or outdoor space is rented to tenants, usually on a short-term basis, often month-to-month. This typically includes a climate controlled or indoor component to protect more sensitive goods.
- (67) "Mixed-use" means the mixing of uses vertically and horizontally within the same structure.
- (68) "Movie Theater" means an establishment where the public can view new movie releases as entertainment within an indoor environment that often provides food and drink services.
- (69) "Multi-family" means a structure that contains more than two (2) units of occupancy.
- (70) "Natural Resource Processing" means a business that takes a source of wealth in its natural state, such as timber, fresh water, or mineral deposits, and converts them into a usable form for economic benefit.
- (71) "Nonconforming Use" means any use not permitted in the zoning district in which it is located, which lawfully exists by virtue of the fact that it existed as of the effective date of this Code and which has not been discontinued under the provisions of this Code.
- (72) "Nursing Care" means a facility that provides rehabilitative, restorative, and/or ongoing skilled nursing care to patients or residents in need of assistance with activities of daily living.
- (73) "Open Space" means an area that is generally grassy and open-air, which is also generally accessible for the public to use.

- (74) "Outdoor Display Area" means an area of designated size used for the display of merchandise or tangible property normally vended within the contiguous business or organization.
- (75) "Outdoor Storage Yard" means a space that is typically not covered in any form or fashion that provides for the outdoor storage of large materials or goods, but can sometimes include used car parts, junk, etc.
- (76) "Park" means an open area that is generally grassy and that includes opportunities for many activities, which could include playgrounds, walking trails, athletic fields, etc.
- (77) "Parking Lot" means an off-street, ground-level open area, usually improved, for temporary storage of motor vehicles.
- (78) "Parking, Off-Street" means space occupied by automobiles on premises other than streets.
- (79) "Parking Space" means a space for the parking of a motor vehicle within a public or private parking area.
- (80) "Parking Structure" means a building designed for car parking and where there are a number of floors or levels on which parking takes place.
- (81) "Parkland" means a means an open area that is generally grassy and that includes opportunities for many activities, which could include playgrounds, walking trails, or athletic fields, but can also mean a preservation area with limited public access.
- (82) "Pergola" means a structure usually consisting of parallel colonnades supporting an open roof of girders and cross rafters.
- (83) "Principal Building or Structure" means the building or structure with the greatest percentage of lot coverage or occupied by the principal use.
- (84) "Public Assembly" means a structure that is meant to be used by the community for the purpose of various groups coming together under a common purpose, which typically include churches, places of worship, etc.
- (85) "Public Hearing" means a hearing open to the general public, held after public notice thereof has been given, at which time any person shall be entitled to be heard concerning the subject matter of the hearing.
- (86) "Public Lodge" means a location for community groups to socialize and hold meetings, also commonly referred to as social lodges.
- (87) "Public Safety Facility" means a facility that is meant to be occupied by municipal safety officers such as police, fire, EMS, etc.
- (88) "Recreational Vehicle" means a vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.
- (89) "Religious Facility" means a church or place of worship or religious assembly with related facilities such as the following in any combination: rectory or convent; private school, meeting hall, offices for administration of the institution, licensed child or adult daycare, playground, cemetery.
- (90) "Restaurant" means a place where people pay to sit and eat meals that are cooked and served on the premises, which can sometimes include a drive-thru option.
- (91) "Rooming Unit" means one or more living and/or sleeping rooms arranged contiguously and being accessible through a single interior entrance, such rooms have no cooking or sanitary facilities.
- (92) "Salvage Yard" means a place where disused vehicles or other machinery is broken up and the parts saved and processed for resale, which is also often called a junk yard.
- (93) "School" means a publicly or privately-owned facility providing full- or part-time instruction and training; "school" shall include elementary, junior high, and high schools, college and trade schools, and studios providing instruction (e.g., craft, dance, karate schools, all operating as not-for-profit entities).
- (94) "Screening" means a method of visually shielding or obscuring one abutting or nearby building, structure or use from another by fencing, walls, berms, or densely planted vegetation.
- (95) "Setback" means the minimum distance by which any building or structure must be separated from a street right-of-way or lot line.
- (96) "Single Family" means a dwelling that is suited for one (1) family to occupy.
- (97) "Stables" refers to a structure that is generally constructed to house livestock.
- (98) "Storage" means a space or place where goods, materials, or personal property is placed and kept for more than twenty-four (24) consecutive hours.
- (99) "Storage, Outdoor" means the storage or collection for more than three (3) consecutive days, or any part of a day for three (3) consecutive days of any products, materials, equipment, appliances, vehicles not in service, and/or personal property of any kind in an enclosed, uncovered area.
- (100) "Story" means a 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 next floor above, then the space between any floor and the ceiling next above, not including a cellar.
- (101) "Street" means a properly dedicated public way which affords the principal means of access to abutting properties.
- (102) "Structure" means anything other than a building built or erected, including among other things shelters, arbors, gazebos, stadia, reviewing stands, band stands, display stands, bleachers, booths, parking lots, swimming pools, skating rinks, platforms, decks, towers, bridges, trestles, frameworks, bins, barriers, signs, poles and tanks above or below ground; and shall also mean the supporting framework thereof and appurtenances thereto.
- (103) "Structure Height" means the vertical distance measured from the grade level to the highest point of a structure.
- (104) "Tower" means a tall structure, usually a steel lattice tower, used to support an overhead power line and often includes an antenna component.
- (105) "Townhouse" means a dwelling that is typically clustered into row homes and generally have two (2) or more floors per unit.
- (106) "University" means a facility and/or campus that provides for higher education needs and attainment, also generally referred to as a college or college campus.
- (107) "Variance" means a deviation from the requirements of this Code granted by the Board in cases of practical difficulty or unnecessary hardship under the provisions of and as limited by this code.
- (108) "Veterinary Clinic" means a building whose purpose is to provide medical services and often grooming and boarding services for small companion animals, but can sometimes provide services for livestock.
- (109) "Vocational Training" means a technical or trade school that provides the education necessary for community members to enter the workforce with a specific set of skills.
- (110) "Wholesale Factory" means a business that buys large quantities of goods and resells them to other businesses.
- (111) "Yard" means an open space on the same lot with a main building or structure, extending between a lot line to the nearest front, rear or side wall of such building or structure.
- (112) "Yard, Front" means a yard extending the full width of the lot upon which it is located between the street line of such lot and any building located thereon.
- (113) "Yard, Rear" means a yard extending the full width of a lot between the main building/structure located thereon and the rear lot line.
- (114) "Yard, Side" means a yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

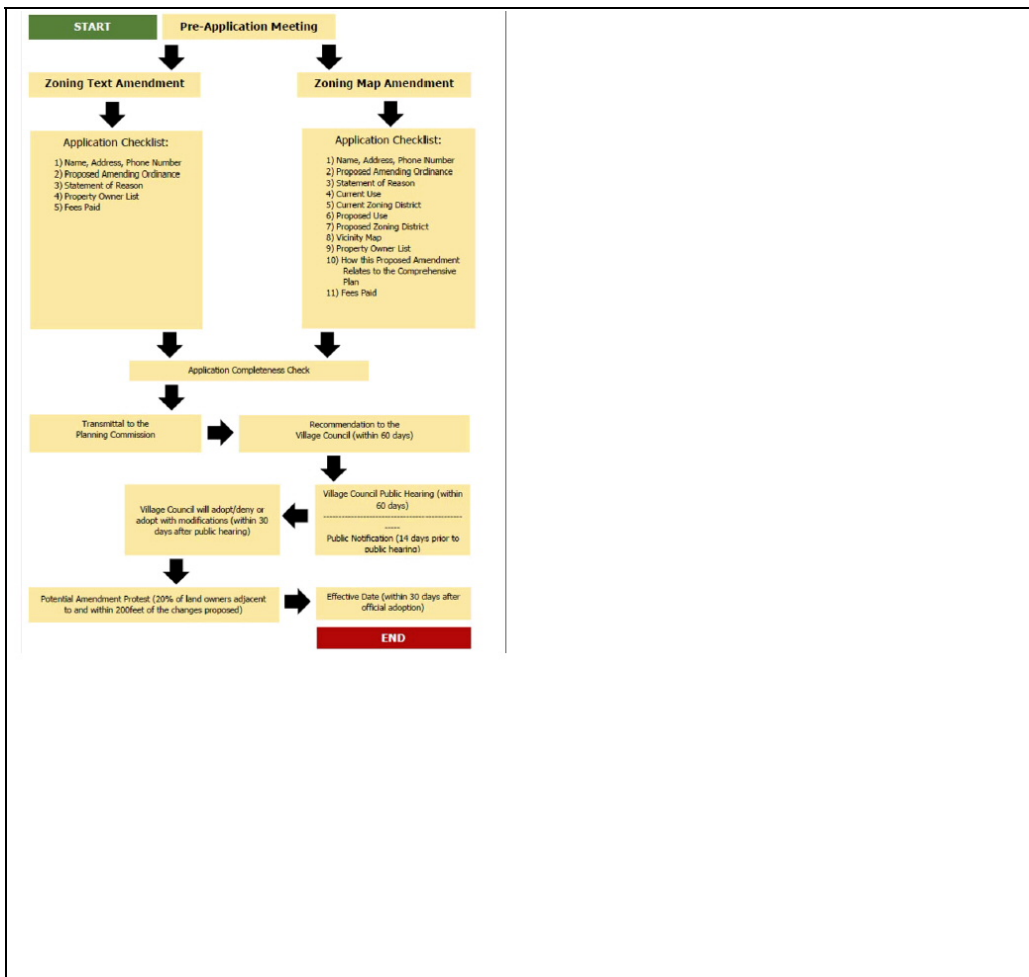
**1103.03 CONDITIONAL USE APPLICATION.**



**1103.04 VARIANCE REQUEST APPLICATION.**



**1103.05 ZONING AMENDMENT APPLICATION.**



### TITLE THREE - Administration

- Chap. 1111. Planning Commission.
- Chap. 1113. Board of Zoning Appeals.
- Chap. 1115. Appeals and Variances.
- Chap. 1117. Conditional Uses.
- Chap. 1119. Nonconforming Uses.
- Chap. 1121. Zoning Amendments.

#### CHAPTER 1111

##### Planning Commission

- 1111.01 Established duties and authority.**
- 1111.02 Architectural review.**
- 1111.03 Site plan review and checklist.**
- 1111.04 Terms and membership.**
- 1111.05 Meeting structure and quorum.**
- 1111.06 Public notification protocol.**

##### 1111.01 ESTABLISHED DUTIES AND AUTHORITY.

(a) General. A Planning Commission ("Commission"), which shall possess all of the powers and be subject to all of the responsibilities imposed upon by law, the ordinances of the Village and the directions of Council, is hereby authorized and established. The Commission shall consist of five members including the Mayor, one of the members of Council, to be selected by Council, and three electors of the Village appointed by the Mayor and subject to the approval of Council. All members shall serve without compensation. The Mayor may at any time remove any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office, incapacity or incompetency, provided, however, that such removal from office shall become final only after being confirmed by the affirmative vote of a majority of the members of Council. The Building Inspector and Village Engineer shall furnish the necessary technical advice and services required by the Commission; they shall attend all meetings but shall not vote.

(b) Powers and Duties. The Commission shall administer the Planning and Zoning Code and Building Code regulations. The Commission shall have such powers and duties as may be prescribed by the ordinances of Council or the general laws of the State of Ohio (Ohio R.C.713.01 et seq.) not inconsistent therewith. Included in these duties and responsibilities are the powers:

- (1) To make, revise, and amend plans and maps of the whole or any portion of the municipal corporation.
- (2) To make recommendations to public officials concerning planning and zoning issues, including the general location, character, and extent of any such public ways, grounds, open spaces, buildings, property, utilities, or terminals.
- (3) To accept, receive, and expend funds, grants, and services from government agencies, departments, and instrumentalities thereof and contract with respect thereto, either separately or jointly or cooperatively, and provide such information and reports as may be necessary to secure such financial aid.
- (4) To control, employ, appoint, architects, engineers, and other professional service.
- (5) To adopt a plan for dividing the municipal corporation or any portion thereof into zones or districts, in the interest of the public health, safety, convenience, comfort, prosperity, or general welfare, for the limitations and regulation of the height, bulk, design and location, including percentage of lot occupancy, set back building lines, and area and dimensions of yards, courts, buildings and other open spaces, and the uses of buildings and other structures and of premises in such zones or districts.



- (6) To periodically review, revise, and amend the Village's Master Plan.
- (7) To present to Council every four (4) years in September, beginning with the September 2000 Council meeting, its recommendations for amendments to the Village Master Plan for adoption by Council.
- (8) To establish rules and regulations for its own procedure not inconsistent with this section, subject to the approval of Council.  
(Ord. 2017-49. Passed 12-5-17.)

**1111.02 ARCHITECTURAL REVIEW.**

- (a) General. The Planning Commission shall undertake design review functions pursuant to the provisions of this section:
  - (1) The purposes of Architectural Review are to protect the value, appearance and use of property on which the buildings are constructed or altered, to maintain a high character of community development, to protect the public health, safety, convenience, and welfare and to protect real estate within the Village from impairment or destruction of value. These purposes shall be accomplished by the Commission by regulating, according to accepted and recognized architectural and engineering principles, the design, use of materials, finished grade lines, dimensions, orientation and location of all main and accessory buildings to be erected, moved, altered, remodeled, or repaired, subject to the provisions of the Planning and Zoning Code and the Building Code and other applicable sections of this Code. In reviewing, regulating, and approving building plans, the Commission shall consider and take cognizance of the development of adjacent, contiguous and neighboring buildings and properties for the purpose of achieving safe, harmonious, and integrated development of related properties.
  - (2) The provisions of this Chapter shall apply to all new construction and construction which alters exterior elevations wherever situated within the Village, including construction by the Village. The Building Commissioner shall, as he/she deems necessary, file all drawings, data, reports, and complaints received with the Commission respecting applications for building permits
  - (3) Review of Plans and Specifications. The Commission shall receive and promptly review and pass upon all drawings, data, reports, and complaints filed in the Building Department, in the order filed for the purposes set forth in this chapter, and according to rules and regulations duly adopted and published by the Commission for the operation of its business, which rules and regulations shall not be inconsistent with the purposes of the Commission, the provisions of this chapter, and the architectural guidelines as set forth in the "Village of Newburgh Heights Architectural Standards" or the same as shall be amended from time to time. The Commission may approve, conditionally approve or reject the exterior design of any proposed building or structure, enlargement or alteration, and may modify or request such modifications as it may deem necessary to carry out the purpose and intent of this Chapter. The Commission shall immediately notify the Building Department in writing of action taken in each instance, and no building permit shall be issued unless plans and specifications therefore have been approved in writing by the Commission.
  - (4) Appeals from Decisions of the Commission. Any person or persons jointly or severally aggrieved by any decision of the Commission may appeal therefrom to the Board of Zoning Appeals in the same manner as provided for appeals from other regulations in this Code. The Board of Zoning Appeals may reverse, modify, or affirm the action, and its decision shall be considered final.  
(Ord. 2017-49. Passed 12-5-17.)

**1111.03 SITE PLAN REVIEW AND CHECKLIST.**

- (a) Review of Plans. The Commission shall receive and promptly review all drawings, data, and reports in the order filed for the purposes set forth in this chapter, and according to rules and regulations duly adopted and published by the Commission for the operation of its business, which rules and regulations shall not be inconsistent with the purposes of the Commission, the provisions of this chapter, and the architectural guidelines as set forth in the "Village of Newburgh Heights Architectural Standards" or the same as shall be amended from time to time. The Commission may recommend approval, conditional approval or rejection of the exterior design of any proposed building or structure, enlargement or alteration, and may modify or request such modifications as it may deem necessary to carry out the purpose and intent of this Chapter.
- (b) Review Checklist.
  - (1) A site plan shall be considered complete with any application requiring such a plan upon demonstrating the following requirements:
    - A. Any existing buildings
    - B. Any proposed buildings
    - C. Streets
    - D. Location and number of parking spaces
    - E. Driveways
    - F. Curb cuts
    - G. Walkways
    - H. Sidewalks
    - I. Landscaped areas
    - J. Lighting
    - K. Fences
    - L. Signs
    - M. Utilities Locations
    - N. Other important features at or near the project site
  - (2) All elements of the site plan shall be drawn to a 1:1 scale and show all relevant dimensions and note such information as drains, paving materials, etc. (Ord. 2017-49. Passed 12-5-17.)

**1111.04 TERMS AND MEMBERSHIP.**

- (a) General. The three electors shall be appointed to serve six (6) year terms, except that for the first commission, one member shall serve for two (2) years, another for four (4) years and another for six (6) years (Ohio R.C. 713.01). The Council members and Mayor shall serve for the remainder of their respective terms as members of Council or as Mayor. A vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for an original appointment.
- (b) Officers. The Commission shall elect a Chairperson of the Commission from among the three elector members of the Commission. The Commission shall appoint a Secretary to the Commission, who need not be a member of the Commission and who may hold other municipal office or appointments. The Commission may appoint such other officers or employ such persons as may be needed for the proper conduct of its affairs; this includes the calling upon professionals for their expertise on various topics and issues during public hearings.  
(Ord. 2017-49. Passed 12-5-17.)

**1111.05 MEETING STRUCTURE AND QUORUM.**

- (a) The Planning Commission shall hold its regularly scheduled meetings on the fourth (4th) Thursday of each month. In the event that no new business or application is on the agenda for any given month, the Chairperson of the Planning Commission may cancel such a meeting, provided that "Notice of Cancellation" shall be posted at least twenty-four (24) hours prior to the meeting date, and provided further that the Planning

Commission shall meet at least quarterly. The Planning Commission shall be permitted to hold special meetings as necessary, upon call of the Chairperson.

(b) The Planning Commission shall hold a public meeting and/or hearing with respect to an officially filed application, site plan or other request for review no later than the date of the next regularly scheduled Planning Commission meeting that is at least twenty-one (21) days after the date on which any such application is filed.

(c) A majority of the members of the Planning Commission shall constitute a quorum for the transaction of business and the affirmative vote of three (3) members of the Planning Commission shall be necessary for any official action. If all members are not present, the applicant may request a delay so that all members may be present. The Chairperson shall schedule a special meeting within fourteen (14) days after the initial meeting for this purpose. If the Chairperson cannot obtain attendance of all members within the first fourteen (14) days, the applicant may request and the Chairperson shall schedule a second special meeting scheduled for fourteen days following the first special meeting. The Chairperson must contact all members and notify them of any special meeting or any cancellation of the Planning Commission's regularly scheduled meeting. For the first special meeting, notification shall be by letter delivered by the Newburgh Heights Police to all members. For the second special meeting (or any subsequent special meeting), notification shall be by certified mail, return receipt required. Actions may be taken at the second special meeting regardless of all members being present, as long as there is a quorum. (Ord. 2017-49. Passed 12-5-17.)

#### **1111.06 PUBLIC NOTIFICATION PROTOCOL.**

(a) Newspaper. Before conducting a public hearing, notice of such hearing shall be given in one or more newspapers of general circulation in the Village at least fourteen (14) days before the date of said hearing. The notice shall set forth the time, place of the public hearing, the nature of the proposal or appeal, and a point of contact for questions or to provide comments.

(b) Before conducting a public hearing, written notice of such hearing shall be mailed by the Chairman of the Planning Commission, by first class mail, at least fourteen (14) days before the day of the hearing to all owners of property within two hundred (200) feet of the boundary of the property in question to the addresses of such owners appearing on the County Auditor's current tax list and to such other lists which may be specified by the Planning Commission. The notice shall contain the same information as required of notices published in newspapers as specified above in subsection (a) hereof.

(Ord. 2017-49. Passed 12-5-17.)

### **CHAPTER 1113**

#### **Board of Zoning Appeals**

##### **1113.01 Established duties and authority.**

##### **1113.02 Terms and membership.**

##### **1113.03 Meeting structure and quorum.**

##### **1113.04 Public notification protocol.**

#### **1113.01 ESTABLISHED DUTIES AND AUTHORITY.**

(a) General. A Board of Zoning Appeals shall be composed of five electors of the Village appointed by the Mayor, and confirmed by the Council. All board members shall serve without compensation and the Mayor, upon the approval of Council, shall have the right to remove any member for cause, including missing more than fifty (50%) percent of the meetings within a calendar year. The Building Inspector and the Village Engineer shall furnish the necessary technical advice and services required by the Board; they shall attend all meetings but shall not vote.

(b) Powers and Duties. The Board of Zoning Appeals shall have the following duties and powers:

- (1) To hear and decide appeals made for exceptions to and variances in the application of ordinances governing zoning and building in the Village in conformity with the purpose and intent thereof and to hear and decide all appeals made for exceptions to and variances in the application of ordinances, or orders or regulations of administrative officials or agencies.
- (2) To hear and decide appeals from, and to review upon motion of any member of the Board, any order, requirements, decision or determination of the Building Inspector or any other administrative official or agency of the Village, relating to the location, design, materials, construction, alteration, repair, equipment, use or occupancy, maintenance, removal or demolition of any building or other structure or any appurtenance connected or attached to such buildings or structures, regulated by the Building Code and any rule or regulation or amendment or repeals thereof made by such officials or agencies under the authority conferred upon them by the Building Code, by reversing or affirming in whole or in part, or modifying such order, requirement, decision or determination, or rule, regulation, amendment or repeals thereof as in its opinion ought to be made in the premises.
- (3) To exercise with respect to buildings situated in the Village the same powers as are exercised by the Board of Building Standards under the laws of the State to the extent that it is competent for this chapter so to authorize the Board.
- (4) To formulate and submit to Council, changes in and amendments to the Building Code which the Board determines as desirable for the proper regulation of buildings and structures and the equipment thereof and appurtenances thereto in the Village.
- (5) To establish rules and regulations for its own procedure not inconsistent with this section, subject to the approval of Council.
- (6) To do and perform such other duties and functions as may be imposed upon it by this chapter or ordinances and resolutions of Council.

(Ord. 2017-49. Passed 12-5-17.)

#### **1113.02 TERMS AND MEMBERSHIP.**

(a) General. The Board of Zoning Appeals shall be appointed for a term of five (5) years except that members first appointed shall be appointed one for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years and one for a term of five (5) years. Any vacancy shall be filled in the same manner for the unexpired term.

(b) Officers. The Board shall elect a Chairperson of the Board from among the five members of the Board. The Board shall appoint a Secretary to the Board, who need not be a member of the Board and who may hold other municipal office or appointments. The Board shall employ such persons as may be needed for the proper conduct of its affairs.

(Ord. 2017-49. Passed 12-5-17.)

#### **1113.03 MEETING STRUCTURE AND QUORUM.**

(a) The Board shall hold its regularly scheduled meetings on the third (3rd) Thursday of each month. In the event that no new business or application is on the agenda for any given month, the Chairperson of the Board may cancel such meeting, provided that Notice of Cancellation shall be posted at least twenty-four hours prior to the meeting date, and provided further that the Board shall meet at least quarterly. The Board shall be permitted to hold special meetings as necessary, upon call of the Chairperson.

(b) The Board shall hold a public meeting and/or hearing on an officially filed application no later than the date of the next regularly scheduled Board meeting that is at least twenty-one (21) days after the date on which any such application is filed.

(c) A majority of the members of the Board shall constitute a quorum for the transaction of business and the affirmative vote of three members of the Board shall be necessary for any official action. If all members are not present, the applicant may request a delay so that all members may be

present. The Chairperson shall schedule a special meeting within fourteen (14) days after the initial meeting for this purpose. If the Chairperson cannot obtain attendance of all members within the first fourteen (14) days, the applicant may request another meeting and the Chairperson shall schedule a second special meeting not more than fourteen (14) days following the first special meeting date. The Chairperson must contact all members and notify them of any special meeting or any cancellation of the Board's regularly scheduled meeting. For the first special meeting, notification shall be by letter delivered by the Newburgh Heights Police to all members. For the second special meeting (or any subsequent special meeting), notification shall be by certified mail, request receipt required. Actions may be taken at the second special meeting regardless of all members being present, as long as there is a quorum.  
(Ord. 2017-49. Passed 12-5-17.)

#### **1113.04 PUBLIC NOTIFICATION PROTOCOL.**

(a) Newspaper. Before conducting a public hearing, notice of such hearing shall be given in one or more newspapers of general circulation in the Village at least fourteen (14) days before the date of said hearing. The notice shall set forth the time, place of the public hearing, the nature of the proposal or appeal, and a point of contact for questions or to provide comments.

(b) Before conducting a public hearing, written notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals, by first class mail, at least fourteen (14) days before the day of the hearing to all owners of property within two hundred (200) feet of the boundary of the property in question to the addresses of such owners appearing on the County Auditor's current tax list and to such other lists which may be specified by the Board of Zoning Appeals. The notice shall contain the same information as required of notices published in newspapers as specified above in subsection (a) hereof.

(Ord. 2017-49. Passed 12-5-17.)

### **CHAPTER 1115**

#### **Appeals and Variances**

##### **1115.01 Appeals.**

##### **1115.02 Variances.**

##### **1115.03 Limitations.**

##### **1115.04 Public hearing and notification.**

##### **1115.05 Board of Zoning Appeals action.**

#### **1115.01 APPEALS.**

(a) If a building or occupancy permit is refused by the Building Commissioner, an appeal, in writing, may be made to the Board of Zoning Appeals. Such appeal may be made to the Board by any elected Village official, or by any person aggrieved or affected by any decision. Such appeal shall be filed within fourteen (14) days after such decision by the Building Commissioner is rendered and shall be filed with the Building Commissioner. Upon request of such appeal, the Building Commissioner shall immediately transmit to the Board such appeal, together with the permit application, plans, maps and other data in his or her possession which may be useful to the Board in arriving at the proper decision.

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

(Ord. 2017-49. Passed 12-5-17.)

#### **1115.02 VARIANCES.**

(a) Any person requesting a variance from the provisions of this Code for the district in which his or her property is located may apply to the Board for such variance. Such application shall be made in writing to the Building Commissioner.

(b) Such an application shall include:

- (1) Name, address, and phone number of applicants.
- (2) Legal description of the property.
- (3) Description of the nature of the variance.
- (4) A narrative statement demonstrating that the requested variance conforms to the following standards:
  - A. That special circumstances and conditions exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - B. That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
  - C. That special conditions and circumstances do not result from the actions of the applicant;
  - D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

(c) Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Code would result in practical difficulty or in unnecessary hardship, as applicable. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Code would result in practical difficulty or in unnecessary hardship, as applicable. A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the standards stated above have been met.

(d) In approving a variance, the Board may designate such conditions in connection therewith as will, in its opinion, protect the health, safety, attractiveness and values of adjoining property. Permits approved by the Board for exceptions and variances from the regulations of this Code shall be void after one (1) year from the date of such approval, unless, in the case of new construction, work has been done above the foundation walls, and, in cases of occupancy of land or reconstruction or occupancy of buildings, the operation called for by such permit is well under way by the end of such one (1) year period.

(Ord. 2017-49. Passed 12-5-17.)

#### **1115.03 LIMITATIONS.**

Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this Code in the district involved, or any use expressly or by implication prohibited by the terms of this Code in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Code.

(Ord. 2017-49. Passed 12-5-17.)

#### **1115.04 PUBLIC HEARING AND NOTIFICATION.**

(a) General. The Board of Zoning Appeals shall schedule a public hearing within sixty (60) days after it receives an application for an appeal or variance. Should all members of the Board of Zoning Appeals not be present at the hearing, the applicant may request a delay in the proceedings pursuant to the regulations in this Code.

(b) Public Notification.

- (1) Newspaper. Before conducting a public hearing, notice of such hearing shall be given in one or more newspapers of general circulation in the Village at least fourteen (14) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposal or appeal.
- (2) Before conducting a public hearing, written notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals, by first class mail, at least fourteen (14) days before the day of the hearing to all owners of property within two hundred (200) feet of the boundary of the property in question to the addresses of such owners appearing on the County Auditor's current tax list and to such other lists which may be specified by the Board of Zoning Appeals. The notice shall contain the same information as required of notices published in newspapers as specified above in subsection (b)(1) hereof.

(Ord. 2017-49. Passed 12-5-17.)

**1115.05 BOARD OF ZONING APPEALS ACTION.**

(a) General. Within thirty (30) days after the public hearing required, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for appeal or variance. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. A copy of all decisions or determinations of the Board shall be transmitted to the Building Commissioner.

(b) Fees. A written appeal or application for a variance shall be accompanied by a fee payable to the Village. A schedule of such fees shall be made available through the Village and may be altered or amended only by Council. All fees shall be paid in full before any decision is rendered.

(Ord. 2017-49. Passed 12-5-17.)

**CHAPTER 1117**

**Conditional Uses**

**1117.01 Overview.**

**1117.02 Application, fees and department referral.**

**1117.03 Public hearing and notification.**

**1117.04 Planning Commission action.**

**1117.05 Supplementary conditions and safeguards.**

**1117.06 Revocation of permits.**

**1117.01 OVERVIEW.**

In recent years, the characteristics and effects of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and general welfare of the community. Toward these ends, it is the intent of this chapter to provide for a more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size of development, method or methods of operation, intensity of use, public facilities requirements, and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of this Chapter of this Code. (Ord. 2017-49. Passed 12-5-17.)

**1117.02 APPLICATION, FEES AND DEPARTMENT REFERRAL.**

(a) Application. Any owner, or agent thereof of property for which a conditional use is proposed shall make an application for a conditional use permit by filing it with the Building Commissioner, who shall then refer it to the Planning Commission. Such application, at a minimum, shall contain the following information:

- (1) The street address of the property.
- (2) A legal description of the property and the permanent parcel numbers of the lots included in the property.
- (3) The existing use or uses to which the premises or the proposed building is devoted as well as the proposed use or uses.
- (4) The zoning district of the property.
- (5) The name, address, phone number and fax number of the owner, architect and contractors. In the case of work on a single project which has been determined by the Building Commissioner to have a gross value of fifty thousand dollars (\$50,000) or more and is being performed for or by corporations or partnerships, a statement shall be filed with the application listing the names and addresses of all directors and officers, as well as the names and addresses of all shareholders or principals having a ten (10%) percent or greater interest in such firm.
- (6) Such an application shall be accompanied by the following information when deemed applicable by the Building Commissioner. All such information shall be submitted in duplicate form and in a 1:1 scale where applicable:
  - A. Site context plan. On a building base map, providing context within a larger area by showing streets, buildings and landmarks. The actual site should be outlined on this plan.
  - B. Site plan. Indicating existing and proposed buildings, streets, lot lines, location and number of parking spaces, driveways, walkways, curb cuts, landscaped areas, lighting, fences, sidewalks, signs, or other important features at or near the project site; drawn to scale and showing all relevant dimensions and noting such information as drains, paving materials, etc.
  - C. Landscape plan. Indicating grading, drainage, plant materials, roadways, walkways, and site furnishings (seating, lighting fixtures, etc.).
    - D. Building elevations. For all sides of the building showing details, materials, colors, heights, types of illumination, signs, etc. (Section studies should be provided, where needed, to clarify understanding of special spaces and their effects on the elevations.) Drawings should be to scale.
  - E. Typical floor plans. Which clarify and justify the elevations and exterior changes proposed.
  - F. Master signage plan. Including basic sign parameters as to the location, size, style, illumination, height and color of proposed signs as well as all existing signs on the property. It shall include all information necessary to determine the maximum amount of signage permitted by Code and the amount of signage proposed for current and future tenants of a multi-tenant facility.
  - G. Color photographs. Showing the site in the context of adjoining properties.
  - H. Sample of materials. Showing proposed colors and textures.
  - I. Utilities. Evidence of adequacy of all required utilities and services.
    - J. Dwelling units and/or employees. Number of dwelling units in proposed buildings or existing buildings to be retained, by number of bedrooms and by any special populations to which occupancy is to be restricted. Proposed number of permanent employees to be accommodated on the property, including existing employment proposed to be retained, by shift and

by full-or part-time status.

- K. Hazardous materials. Descriptions of any known hazardous materials contamination of the site, including buried storage tanks. Description of any hazardous wastes to be generated by the proposed project and of plans for disposal thereof.
  - L. Traffic analysis. Professional analysis of estimated vehicular trips generated by each phase of completed development per day and during AM and PM peak hours, the expected impact on existing traffic loads in the area, and road construction or traffic control measures needed to accommodate the new traffic.
  - M. Phasing. Chronological schedule of expected beginning and ending dates for proposed stages of construction and improvement of all structures, common or public areas, circulation ways, parking, loading, and service areas, and utilities, showing the interim use and maintenance of areas not under construction in each phase.
- (7) A narrative discussing the compatibility of the proposed use with the existing uses of adjacent properties and with the comprehensive plan, if any, to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes and vibration; and
  - (8) A narrative addressing each of the applicable criteria contained below in subsection (b), General Standards.
- (b) General Standards. The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find sufficient evidence showing that such use at the proposed location:
- (1) Is in fact a conditional use as established under the district regulations adopted for the zoning district involved.
  - (2) Will be in accordance with the general objectives, or with any specific objective, of the Village's Master Plan and/or this Code.
  - (3) Will be designed, constructed, operated and maintained so as to be harmonious with and appropriate in appearance to the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
  - (4) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewers and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such services.
  - (5) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
  - (6) Will not be hazardous or disturbing to existing or future neighboring uses.
  - (7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person or property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
  - (8) Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
  - (9) Cannot be satisfactorily located in a nearby less restrictive use district.
- (c) Referral to Department. The Building Commissioner shall submit plans to the appropriate departments within the Village for their comments, i.e., Fire, Police, Service and Law. Written reports from the aforementioned departments and from the Building Department shall be provided to the Planning Commission for presentation at the required Public Hearing.  
(Ord. 2017-49. Passed 12-5-17.)

#### **1117.03 PUBLIC HEARING AND NOTIFICATION.**

- (a) General. The Planning Commission shall hold a public hearing within sixty (60) days after it receives an application for a conditional use.
- (b) Public Notification.
  - (1) Newspaper. Before conducting a public hearing, notice of such hearing shall be given in one or more newspapers of general circulation in the Village at least fourteen (14) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposal or appeal.
  - (2) Before conducting a public hearing, written notice of such hearing shall be mailed by the Chairman of the Planning Commission, by first class mail, at least fourteen (14) days before the day of the hearing to all owners of property within two hundred (200) feet of the boundary of the property in question to the addresses of such owners appearing on the County Auditor's current tax list and to such other lists which may be specified by the Planning Commission. The notice shall contain the same information as required of notices published in newspapers as specified above in subsection (b)(1) hereof. (Ord. 2017-49. Passed 12-5-17.)

#### **1117.04 PLANNING COMMISSION ACTION.**

Within thirty (30) days after the public hearing required, the Planning Commission shall either approve, approve with supplementary conditions, or disapprove the request for a conditional use permit. A copy of all decisions or determinations of the Commission shall be transmitted to the Building Commissioner. If the Commission approves or approves with supplementary conditions, it shall direct the Building Commissioner to issue a conditional permit listing the specific conditions specified by the Commission for approval.  
(Ord. 2017-49. Passed 12-5-17.)

#### **1117.05 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.**

In granting any conditional use, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance.  
(Ord. 2017-49. Passed 12-5-17.)

#### **1117.06 REVOCATION OF PERMITS.**

- (a) General.
  - (1) A conditional use permit shall become null and void if construction on the proposed project has not begun within one (1) year after such approval, unless an extension of time is allowed by the Planning Commission.
  - (2) The Planning Commission shall revoke a conditional use permit upon a report and finding of the Building Commissioner that subsequent plans or building operations do not comply with terms and conditions of the approval.
  - (3) A conditional use permit shall automatically expire if, for any reason, the conditional use shall cease for two (2) or more consecutive years.
- (b) Fees. Application for a conditional use permit shall be accompanied by a fee payable to the Village. A schedule of such fees shall be made available through the Village and may be altered or amended only by Council. All fees shall be paid in full before any application is reviewed or any permit is issued.  
(Ord. 2017-49. Passed 12-5-17.)

### **CHAPTER 1119**

#### **Nonconforming Uses**

**1119.01 Overview.**

**1119.02 Continuation, enlargement or expansion.**

**1119.03 Building under construction.**

**1119.04 Change in use.**

**1119.05 Restoration and repair.**

**1119.06 Abandonment.**

**1119.07 Common ownership.**

**1119.08 Conditional use provisions.**

**1119.01 OVERVIEW.**

Within the districts established by this Code, or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful prior to adoption or amending of this Code but which would be prohibited, regulated, or restricted under the terms of this zoning code or amendments thereto. The legitimate interests of those who lawfully establish these nonconformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension, and substitution. Except as provided in this Chapter, a lawful building, structure or use existing on the effective date of this Code may be continued even though such building, structure or use does not conform to the provisions of this Code for the district in which such building or use is located. Nevertheless, while it is the intent of this Code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded, or used as grounds for any other use(s) or structure(s) prohibited elsewhere in the district except as otherwise specifically provided for in this Chapter.

(Ord. 2017-49. Passed 12-5-17.)

**1119.02 CONTINUATION, ENLARGEMENT OR EXPANSION.**

Any use of land or buildings, and any design of buildings or location of buildings on a lot, lawfully existing on the effective date of applicable zoning regulations, may be continued even though such use, design or location does not conform to the regulations of this Code for the district in which it is located, provided however, that no enlargement or expansion of such nonconforming building or use shall be made.

(Ord. 2017-49. Passed 12-5-17.)

**1119.03 BUILDING UNDER CONSTRUCTION.**

No change is required by this Code in the plans, construction or designated use of a building which does not conform to the regulations of this Code for the district in which its premises are located, provided that construction thereon was lawfully begun before passage of this Code, and upon which actual construction has been diligently carried on. Actual construction is defined to be the actual placing of construction materials in their permanent place, fastened in a permanent manner, providing further, that the actual construction of the work shall be diligently carried on until the completion of the building.

(Ord. 2017-49. Passed 12-5-17.)

**1119.04 CHANGE IN USE.**

(a) No change of a nonconforming use shall be made to a less restricted use.

(b) Ordinary repairs, replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding twenty-five percent (25%) of the building's assessed value, according to the assessments of the County Auditor of Cuyahoga County, Ohio, shall be permitted to a nonconforming use or building provided such repair and maintenance is completed within any consecutive twenty-four (24) month period. Any part of a nonconforming building declared to be unsafe by the Building Commissioner and required by him/her to be strengthened or restored to a safe condition shall be permitted to be strengthened or restored to a safe condition.

(c) No structural change shall be made in a nonconforming building, except as provided in subsection (b) hereof, unless it is changed to a conforming building and use or unless the change is approved by the Building Commissioner upon finding that the change is in the direction of conformity and will not extend unduly the life of an objectionable nonconforming use in the neighborhood.

(d) So long as no structural alterations are made, except as required by enforcement of other codes or ordinances, any nonconforming use may, upon appeal to, and approval by the Board of Zoning Appeals, be changed to another nonconforming use of the same classification or less intense classification if the Board shall find that the use proposed for substitution is not more injurious to neighborhood safety and property values than the existing use. In permitting such change, the Board may require additional conditions and safeguards be met, which requirements shall pertain as stipulated conditions to the approval of such change.

(Ord. 2017-49. Passed 12-5-17.)

**1119.05 RESTORATION AND REPAIR.**

(a) No building which has been damaged by fire or other causes to the extent of more than fifty percent (50%) of its assessed tax valuation at the time it was so damaged shall be repaired or rebuilt except in conformity with the regulations for the building and land for the district in which the building is located.

(b) Where the damage sustained represents less than fifty percent (50%) of its assessed tax valuation at the time it was so damaged, or when the building has been declared unsafe by the Building Commissioner or other authorized administrative official, it may be replaced and restored and devoted to the same or a more restricted use, provided that such repair or restoration is completed within six (6) months of the fire or other cause of such damage or within six (6) months from the time the building is declared unsafe.

(Ord. 2017-49. Passed 12-5-17.)

**1119.06 ABANDONMENT.**

(a) A nonconforming use which has been abandoned shall not be replaced by another nonconforming use.

(b) A nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use, or when the nonconforming use has ceased and has not been resumed for a continuous period of six (6) months.

(c) A nonconforming use of a building or property shall be deemed abandoned when it has been replaced by a conforming use or when the nonconforming use has ceased and the intent of the owner to discontinue the use is apparent, or when the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment for a continuous period of six (6) months.

(Ord. 2017-49. Passed 12-5-17.)

**1119.07 COMMON OWNERSHIP.**

Where two (2) or more contiguous nonconforming recorded lots are held in or come into common ownership, they shall be subject to the following provisions, in addition to limitations imposed by other provisions of this Code:

(a) Where two (2) or more nonconforming recorded lots, or a combination of such lots and portions of lots, with continuous frontage, are held in common ownership, they shall be considered as being within the same zoning district and shall be subject to all requirements applicable to the district in which such lots are located.

(b) If two (2) or more nonconforming recorded lots, or a combination of such lots and portions of lots, with continuous frontage, are held in common ownership, and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements of the district in which such lot is located, nor shall any division of any parcel be made which leaves remaining any lot with width or area below that required for the

district in which such lot is located.  
(Ord. 2017-49. Passed 12-5-17.)

#### **1119.08 CONDITIONAL USE PROVISIONS.**

(a) General. In any district in which single-family or two-family dwellings are permitted, such dwellings and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Code, notwithstanding limitations imposed by other provisions of this Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are applicable to the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

(b) Uses under Conditional Provisions. Any use which is permitted as a conditional use in a district under the terms of this ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.  
(Ord. 2017-49. Passed 12-5-17.)

### **CHAPTER 1121**

#### **Zoning Amendments**

**1121.01 Overview; amendment initiative.**

**1121.02 Application for Zoning Map amendment.**

**1121.03 Application for zoning text amendment.**

**1121.04 Planning Commission action.**

**1121.05 Public hearing and notification.**

**1121.06 Village Council action.**

**1121.07 Amendment protest.**

**1121.08 Effective date.**

#### **1121.01 OVERVIEW; AMENDMENT INITIATION.**

(a) Amendments to this Zoning Code may be initiated in one of the following ways:

- (1) By the adoption of a motion by the Planning Commission.
- (2) By the adoption of a resolution by the Village Council.

(3) By the filing of an application by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

(b) The Council may from time to time, on its own motion or petition, after public notice and hearing, amend the provisions hereof. Every such proposed amendment shall be referred by the Council to the Planning Commission for a report. Any such amendment that has failed to receive the approval of the Planning Commission shall not be passed by Council except by a three-fourths vote of the members elected to Council.

(Ord. 2017-49. Passed 12-5-17.)

#### **1121.02 APPLICATION FOR ZONING MAP AMENDMENT.**

(a) Applications for amendments to the Official Zoning Map adopted as part of this Code shall contain at least the following information:

- (1) The name, address and phone number of applicant.
- (2) Proposed amending ordinance, approved as to form by Village Law Director.
- (3) A statement of reason(s) for the proposed amendment.
- (4) Current use.
- (5) Current zoning district.
- (6) Proposed use.
- (7) Proposed zoning district.
- (8) A vicinity map at a 1:1 scale approved by the Building Commissioner showing property lines, thoroughfares, existing and proposed zoning, and such other items as the Building Commissioner may require.
- (9) A list of all property owners and their mailing addresses who are within, contiguous to, or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case, except that addresses need not be included where more than ten (10) parcels are to be rezoned.
- (10) A statement on the ways in which the proposed amendment relates to the comprehensive plan.
- (11) A fee as established by the Village Council.

(Ord. 2017-49. Passed 12-5-17.)

#### **1121.03 APPLICATION FOR ZONING TEXT AMENDMENT.**

Applications for amendments proposing to change, supplement, amend or repeal any portion(s) of this Code, other than the Official Zoning Map, shall contain at least items (1), (2), (3), (9), and (11) listed above in Section 1121.02(a).

(Ord. 2017-49. Passed 12-5-17.)

#### **1121.04 PLANNING COMMISSION ACTION.**

(a) Transmittal to the Planning Commission. Immediately after the adoption of a resolution by the Village Council or the filing of an application by at least one (1) owner or lessee of property, said resolution or application shall be transmitted to the Planning Commission.

(b) Recommendation. Within sixty (60) days from the receipt of the proposed amendment, the Planning Commission shall transmit its recommendation to the Village Council. The Commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment as requested, or it may recommend that the amendment be denied. The written decision of the Planning Commission shall indicate the specific reason(s) upon which the recommendation is based.

(Ord. 2017-49. Passed 12-5-17.)

#### **1121.05 PUBLIC HEARING AND NOTIFICATION.**

Upon receipt of the recommendation from the Planning Commission, Village Council shall schedule a public hearing. Said hearing shall be not more than sixty (60) days from the receipt of the recommendation from the Planning Commission.

(Ord. 2017-49. Passed 12-5-17.)

#### **1121.06 PUBLIC NOTIFICATION.**

(a) Newspaper. Notice of the public hearing required shall be given by Village Council by at least one (1) or more newspapers of general circulation in the Village. Said notice shall be published at least fourteen (14) days before the date of the required hearing. The published notice shall set forth the time and place of the proposed amendment and a summary of the proposed amendment.

(b) Property Owners. Written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least fourteen (14) days before

the day of the public hearing to all owners of property within two hundred (200) feet, including such properties to be contiguous to, and directly across the street from such area proposed to be rezoned or redistricted, to the addresses of such owners appearing on the County Auditor's current tax list and to such other list or lists that may be specified by Village Council. The failure to deliver the notification as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified above in subsection (a) hereof. (Ord. 2017-49. Passed 12-5-17.)

**1121.06 VILLAGE COUNCIL ACTION.**

Within thirty (30) days after the required public hearing, the Village Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event of a denial or modification of less than three-fourths votes, the recommendation of the Planning Commission shall be considered as approved. No such ordinance shall be passed unless it has been fully and distinctly read on three different days except that such ordinance may become emergency legislation if three-fourths of the members of Village Council vote to dispense with the three-reading rule and pass in emergency. (Ord. 2017-49. Passed 12-5-17.)

**1121.07 AMENDMENT PROTEST.**

(a) If a protest against such amendment be presented duly signed and acknowledged by the owners of twenty percent (20%) of the land within such area proposed to be altered, such amendment shall not be passed except by a three-fourths vote of the members elected to Council.

(b) If such an amendment will transfer an area to a less restricted use district and a protest is presented, duly signed and acknowledged by the owners of twenty percent (20%) of the land adjacent to and within two hundred (200) feet from such area proposed to be transferred and within a more restricted use district than the district in which such area is proposed to be transferred, such amendment shall not be passed except by a three-fourths vote of the members elected to Council. (Ord. 2017-49. Passed 12-5-17.)

**1121.08 EFFECTIVE DATE.**

Such amendment adopted by the Village Council shall become effective thirty (30) days after the date of such adoption. (Ord. 2017-49. Passed 12-5-17.)

**TITLE FIVE - Zoning Districts and Standards**

- Chap. 1131. Established Districts and Zoning Map.
- Chap. 1133. Use Regulations.
- Chap. 1135. Dimensional Requirements.
- Chap. 1137. Development and Design Standards.

**CHAPTER 1131**

**Established Districts and Zoning Map**

- 1131.01 Overview.**
- 1131.02 Parkland District.**
- 1131.03 Residential District.**
- 1131.04 Mixed-Density Residential District.**
- 1131.05 Mixed-Use District.**
- 1131.06 Public Facilities District.**
- 1131.07 Commercial District.**
- 1131.08 Light-Industrial District.**
- 1131.09 Adopted Zoning Map.**

**1131.01 OVERVIEW.**

(a) The Village is hereby divided into seven (7) Use Districts which shall be known, in the order of restrictiveness, beginning with the most restrictive, as:

- (1) Parkland District.
- (2) Residential District.
- (3) Mixed-Density Residential District.
- (4) Mixed-Use District.
- (5) Public Facilities District.
- (6) Commercial District.
- (7) Light-Industrial District.

(b) These districts are designated on the Official Zoning Map by appropriate symbols.

(c) A detailed list of allowable uses is provided in Section 1131.02, Table of Allowed Uses.

(d) The Planning Commission holds the final determination as to the appropriateness of a use within a specific district and its general location.

(1) Appeals can be made to the Village Council as per Section 1115.01.

(e) New construction or alterations or additions to the exterior of structures, new construction or alterations to permanent signs, and new construction or alterations to site features shall be subject to architectural review pursuant to the provisions of this Code.

(Ord. 2017-49. Passed 12-5-17.)

**1131.02 PARKLAND DISTRICT.**

(a) General.

(1) The Village of Newburgh Heights is located within a highly urbanized area, in close proximity to the heavily industrialized Cuyahoga Valley. In order to preserve and enhance the quality of life for residents of the Village, it is essential that open space and parkland be preserved to buffer the community from objectionable uses and to provide residents with convenient recreational opportunities. Because parkland has been an essential component of the community's character since its establishment, regulations within this chapter are meant to protect open space and to assure that improvements on park property are compatible with the character of the community.

(2) Within any Parkland District, no building or premises shall be erected, used, arranged or designed to be used in whole or in part for other than public park or similar purposes.

(b) Architectural Design Review. All structures and improvements constructed within a Parkland District shall be subject to the Village's architectural review process. Criteria for reviewing an application for an improvement shall include:

- (1) The proposed improvement, structure or use shall be located properly in relation to duly adopted facilities plans or the Village's Master Plan.
- (2) That the design of such improvement or accessory park use structure shall complement the character of the surrounding neighborhood and shall be in accordance with any duly adopted design plan or guidelines for the facility or the community.



(3) That the location, design and operation of such improvement, structure or use shall not adversely affect the surrounding residential neighborhood.

(Ord. 2017-49. Passed 12-5-17.)

### **1131.03 RESIDENTIAL DISTRICT.**

(a) General. The purpose of the Residential District is as follows:

- (1) To provide for single and two-family (duplex) residential uses where they are compatible with existing residential development within the Village.
- (2) To regulate the bulk and location of buildings and structures in relation to land in order to obtain proper light, air, privacy and usable open spaces on each lot in the district and to maintain a consistency with existing development.
- (3) To ensure the compatibility of neighboring land uses by requiring certain community facilities to be conditionally permitted uses within this residential district and to establish standards to protect residences from excessive glare and noise, abnormal vehicular traffic, objectionable views and other objectionable influences.
- (4) To promote neighborhood safety by requiring operators of "family homes" to provide certain information to the Village and to adhere to certain procedures.

(b) Accessory Uses and Structures.

- (1) Home Occupations. In a dwelling or apartment occupied as a private residence: home occupations, including professional offices, that provide an office within the home of a person practicing any recognized profession, including, but not limited to, accountant, appraiser, architect, artist, clergyman, dentist, engineer, lawyer, physician, realtor or surgeon, may be conducted in the dwelling used by such person as his or her residence, provided that the following conditions are met:
  - A. The profession employs no assistants, other than a secretary, who need not reside within the dwelling. A medical professional may also employ one medical assistant which assists in medical procedures.
  - B. The home occupation or professional office occupies no more than 1/3 the floor area of the dwelling.
  - C. Commercial vehicles used in the home occupation are parked behind the front setback line.
  - D. No window display or signboard is used to advertise such an occupation, other than a nameplate attached to the dwelling.
  - E. The home occupation or professional office does not change the residential character of the dwelling exterior.
- (2) Rooming Unit. In a dwelling or apartment occupied as a private residence: a rooming unit may be rented, provided, however, that no window display or sign is used to advertise such use. Not more than one (1) rooming unit per residence may be so rented and not more than one (1) person per residence, other than the principal occupant's family, shall be permitted to occupy such premises.
- (3) Private Garages. A private garage, either attached or detached, shall be required for all dwellings in the residential district on the same lot with the main building. All garages shall conform to the following regulations:
  - A. A minimum area of two hundred and forty (240) square feet.
  - B. A maximum size of twenty-seven (27) feet in width and twenty-seven (27) feet in depth.
  - C. Not more than one (1) garage shall be permitted on any one (1) lot
  - D. A detached garage shall not be located closer than three (3) feet from a rear lot line and no closer than three (3) feet from a side lot line of an abutting residential use. In the case of a corner lot, the garage shall not be placed closer to the side street than the required setback for that side street.
  - E. A detached garage shall not exceed eighteen (18) feet to the peak of the gable.
  - F. A detached garage shall be located back of the rear wall of the main building and not closer than ten (10) feet therefrom.
  - G. An attached garage shall not protrude closer to the frontage street than the main facade of the dwelling.
- (4) Storage Sheds. Storage sheds shall be permitted to be placed or erected within the rear yard of residential districts subject to the following limitations or conditions:
  - A. They shall not exceed eighty (80) square feet in area or ten (10) feet in height.
  - B. Storage sheds shall not be located closer than three (3) feet from a rear lot line and no closer than three (3) feet from a side lot line of an abutting residential use. In the case of a corner lot, the storage shed shall not be placed closer to the side street than the required setback for that side street.
  - C. Storage sheds shall not have open areas beneath the floor which would attract animals or rodents.
  - D. A storage shed shall be located back of the rear wall of the main building and not closer than ten (10) feet therefrom.
  - E. Storage sheds shall be located in accordance with the above and the location shall be approved by the Building Commissioner. If the Building Commissioner, upon viewing the site, determines that a shed placed or erected according to these regulations will be injurious to, or cause a nuisance to, abutting property owners, the Building Commissioner shall not issue a permit. In making such a determination, the Building Commissioner shall take into consideration the following factors:
    1. The size of the lot.
    2. The shape of the lot.
    3. The location of the main and accessory structures on the lot when compared to abutting properties.
- (5) Swimming Pools. Private pools may be located in a Residential District as an accessory use to the dwelling. The pool and any accessory structure shall not be located in the front yard and shall not be less than three (3) feet from any side or rear lot line. All pools shall comply with fencing requirements of Section 1339.11 of the Building Code.
- (6) Dish-Type Satellite Signal Earth Stations. As regulated in Chapter 1335 of the Building Code.
- (7) Arbors, Gazebos, Pergolas.
  - A. Maximum height - Ten (10) feet
  - B. Maximum area - One hundred twenty (120) feet
- (8) Multi-Family Units. Multi-family structures are permitted within a Residential District. However, no more than three (3) units may be permitted at any given time.
  - A. If more units are desired, a Conditional Use Permit (CUP) may be granted to allow up to four (4) total units. However, any number of units above the maximum of four (4) shall not be permitted within any residential district.
  - B. Refer to Chapter 1117, Conditional Use Permits, for application requirements, public hearing information, and Planning Commission actions and conditions.

(c) Family Home Requirements.

- (1) A "family home" is a permissible use in a Residential District. In order to help ensure the safety of residents of the facility and the surrounding neighborhood the following information and requirements shall be submitted and adhered to by those establishing "family homes" within the Village.

(2) Definitions:

- A. "Developmental Disability" means a disability that originated before the attainment of eighteen years of age and can be expected to continue indefinitely, constitutes a substantial handicap to the person's ability to function normally in society, and is attributable to mental retardation, cerebral palsy, epilepsy, autism or any other condition found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior or requires similar treatment and services.
- B. "Family Home" means a home in which persons with developmental disabilities reside, that provides room and board, personal care, habilitation services, and supervision in a family setting for not more than eight persons with developmental disabilities. No family home shall contain more persons than would normally be allowed to occupy a home based upon health and safety regulations.
- (3) Licensing. Every person desiring to operate a family home shall apply for licensure of the facility to the Director of Mental Retardation and Developmental Disabilities of the State of Ohio.
- A. Each individual, group or agency operating a family home, approved as provided in this chapter, shall inform the Building Commissioner of the renewal, expiration, termination, or revocation of any license, approval or certification issued by any county, state, or federal agency and shall inform the Building Commissioner of any change in the identity of the individual, group or agency operating such a family home or group home.
- (4) Standards for Residents. Persons in the following categories shall not be admitted to a family home as residents or employed for compensation or otherwise as personnel in the home:
- A. A non-developmentally disabled person with a felony criminal record.
- B. Persons found incompetent to stand trial or not guilty by reasons of insanity of a felonious offense.
- C. Persons who constitute a reasonably foreseeable danger to the community or themselves.
- D. Persons who use or are addicted to illegal substances/drugs or abuse alcohol.
- (5) Inspection and Review. Each family home shall be inspected annually by the Building Commissioner and the Fire Division.
- (6) Application and Information Required. Upon notice from the State of Ohio of the proposed issuance of license for a family home, an information application shall be filed by with the Building Commissioner by the individual, group, or agency intending to operate the family home. Such application shall include the following information:
- A. The name, address and telephone number of the operator.
- B. The name, address and telephone number of the operator's sponsoring group or agency.
- C. The address of the home.
- D. The projected capacity of the home, classification of handicap, and types of clients served.
- E. The timing of any certificate or license renewal process and dates.
- F. The experience of the sponsoring agency, applicant and supervisory personnel, including references.
- G. The number and type of personnel to be employed at the home.
- H. A description of the admissions policy, procedures, and committee membership to be utilized for persons desiring to reside in the home.
- I. Any other information required by the Building Commissioner or the Fire Chief to assure public health or welfare.
- (7) Change of Use. Occupancy as a family home shall not be considered as a change of use in a building which has been used for residential purposes immediately prior to its use as a family home.
- (8) Penalty. Whoever violates any provision of this section is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during which a violation occurs or continues.
- (Ord. 2017-49. Passed 12-5-17.)

**1131.04 MIXED-DENSITY RESIDENTIAL DISTRICT.**

- (a) General. The purpose of the Mixed-Density Residential District is as follows:
- (1) To provide for creative and flexible residential uses where they are compatible with existing residential development and where residential districts meet other non-residential districts within the Village.
- (2) To provide for and diversify the housing options available within the Village.
- (3) To ensure the compatibility of neighboring land uses by requiring certain community facilities to be conditionally permitted uses within this residential district and to establish standards to protect residences from excessive glare and noise, abnormal vehicular traffic, objectionable views and other objectionable influences.
- (4) All proposed mixed-density residential projects are required to submit a site plan with the elements described within Section 1111.03(b), Review Checklist, of this code.
- (b) Accessory Uses and Structures. Refer to Section 1131.03(b), Accessory Uses and Structures.
- (c) Dwelling Requirements.
- (1) Density. In no case shall the density within a mixed-density residential district exceed twelve (12) dwelling units per acre.
- (2) Building Orientation. The primary entrance and façade of individual buildings within a multi-family or townhome development shall be oriented towards:
- A. Primary internal or perimeter streets, or
- B. Common open space, such as interior courtyards, parks, or on-site natural areas or features with a clearly defined and easily accessible pedestrian circulation system. Primary entrances and facades shall not be oriented towards parking lots, garages, or carports.
- (3) Building Four (4) Sided Design. All sides of a multi-family building shall display a similar level of quality and architectural detailing. Most of a building's architectural features and treatments shall not be restricted to a single façade. Building details, including roof forms, windows, doors, trim, and siding materials, shall reflect the architectural style of the building. No blank facades shall be permitted.
- (4) Roofs. Flat roof forms are strongly discouraged.
- (5) Multi-Building Developments. Multi-family developments with more than three (3) buildings shall incorporate more than one (1) distinction among building designs. This could include: variation in length, height, or roof form, building shape, or building materials and colors.
- (6) Parking Lots. All off-street parking areas shall be held to the standards in Section 1137.03(b), Parking Lot Landscaping, of this code. Additionally, it is strongly encouraged that parking areas be located in the rear of a structure as to be completely shielded from any public street.
- (Ord. 2017-49. Passed 12-5-17.)

**1131.05 MIXED-USE DISTRICT.**

(a) General. The purpose of the Mixed-Use District is as follows:

- (1) To provide for a mixing of uses within the same district and physical structure.
- (2) To diversify commercial, retail, and housing options for the community.
- (3) To create walkable community centers to facilitate day-to-day activities for the Village.
- (4) To promote high-quality commercial and mixed-use building design.
- (5) Encourage visual variety in non-residential areas of the Village.
- (6) To create a sense of place while utilizing available land and repurposing structures efficiently and effectively.
- (7) All proposed mixed-use projects are required to submit a site plan with the elements described within Section 1111.03(b), Review Checklist, of this code.

(b) Development Requirements.

(1) Each use or building within a Mixed-Use development shall be connected by direct and convenient sidewalks or pathways to provide pedestrian access from one use or building to another use or building.

(2) Whereas residential uses are proposed within the same building as nonresidential uses, the residential uses shall be limited to the upper floors.

(c) Off-Street Parking and Loading. Parking areas are strongly encouraged, but not required, and shall be located in side and rear yards where such parking areas shall be partially or wholly screened by buildings from the public right-of-way.

(1) All parking and loading areas shall be held to the screening standards in Section 1137.03, Landscaping and Screening Standards, of this Code.

(Ord. 2017-49. Passed 12-5-17.)

#### **1131.06 PUBLIC FACILITIES DISTRICT.**

(a) General. The purpose of the Public Facilities District is as follows:

(1) To provide a proper zoning classification for governmental, civil, welfare, and recreational facilities in proper locations and extent so as to promote the general safety, convenience, comfort and welfare.

(2) To protect such public and semi-public facilities and institutions from the encroachment of certain other uses and to set standards to make such uses compatible with adjoining residential uses.

(b) Driveways.

(1) Uses shall have primary vehicular access within two hundred (200) feet of a collector thoroughfare.

(2) Driveways shall be a minimum fifteen (15) feet from an adjoining residential lot.

(c) Outdoor Storage.

(1) Outdoor storage of goods or equipment shall be permitted pursuant to the screening and buffering requirements of Section 1137.03, Landscape and Screening Standards, of this Code. Outdoor storage is not permitted within the required setbacks.

(2) Outdoor storage of vehicles (automobiles, vans, sport utility vehicles, light trucks) shall be permitted provided that the vehicles are normally associated with the main use of the property and are screened and landscaped pursuant to the requirements for parking lots.

(Ord. 2017-49. Passed 12-5-17.)

#### **1131.07 COMMERCIAL DISTRICT.**

(a) General.

(1) The Commercial District and its regulations are established in order to achieve, among others, the following purposes:

A. To provide land area for the retail and service uses, office uses, and commercial uses within the community.

B. To regulate development of such uses based upon standards in order that they may be compatible with the residential areas of the Village and provide for coordinated development within the Commercial District.

C. To encourage the tendency of business to group in centers for the mutual advantage of customers and commercial establishments.

(2) Any business whose chief characteristics of which is a service to the neighborhood within a half mile and being an enterprise, shall not be injurious by reason of emission of dust, fumes, smoke, noise, vibration or danger to life or property, or by creating a nuisance or annoyance to the neighboring community.

(3) Outdoor displays for sale to customer. No displays shall be allowed within the required yards, or within fifteen (15) feet of a residential use.

(4) Outdoor storage of goods or supplies is prohibited.

(b) Off-Street Parking and Loading.

(1) Parking lots and access drives shall observe the following setbacks:

A. Minimum Front Setback (Except for an access drive to the street), Six (6) feet.

(2) Minimum Side Setback:

A. From Residential District, Ten (10) feet.

B. From Non-Residential District, Zero (0), if designed to be integrated into adjacent parking area and written cross-access easement agreement provided by owners, otherwise five (5) feet.

(3) Minimum Rear Setback:

A. From Residential District, Ten (10) feet.

B. From Non-Residential District, Zero (0), if designed to be integrated into adjacent parking area and written cross-access easement agreement provided by owners, otherwise five (5) feet.

(c) Curb Cuts. In connection with the development of any commercial structure on Pearse Avenue, any curb cut off of, or fronting on, Pearse Avenue shall be prohibited.

(Ord. 2017-49. Passed 12-5-17.)

#### **1131.08 LIGHT-INDUSTRIAL DISTRICT.**

(a) General.

(1) The intent of the Light-Industrial District is to provide an area and standards for office and industrial uses which create minimal impact and nuisance on adjacent properties, thereby protecting the health, safety and value of those properties.

(2) Within any Light-Industrial District, no building or premises shall be erected, used, arranged or designed to be used in whole or in part for other than one or more of the following specified uses; provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke, and vapor either are effectively confined to the premises or are disposed of in a manner which will not create a nuisance or hazard to safety or health, and provided further that noise and vibration are effectively prevented from being audible or perceptible at a distance of fifty (50) feet from such premises and provided further that radio and television interference are not created from such premises.

- (3) Outdoor storage of goods or supplies pursuant to the screening and buffering requirements of this Chapter.
  - (4) Outdoor storage is not permitted within the required yards.
  - (b) Off-Street Parking and Loading. Parking lots and access drives shall observe the following setbacks:
    - (1) Minimum Front Setback (Except for an access drive to the street):
      - A. Twenty (20) feet.
    - (2) Minimum Side Setback:
      - A. From Residential District, Twenty-five (25) feet.
      - B. From Non-Residential District, Ten (10) feet.
    - (3) Minimum Rear Setback:
      - A. From Residential District, Twenty-five (25) feet.
      - B. From Non-Residential District, Ten (10) feet.
- (Ord. 2017-49. Passed 12-5-17.)

**1131.09 ADOPTED ZONING MAP.**

(a) Boundaries.

- (1) The boundaries of these use districts are hereby established as shown on a map entitled " Official Zoning Map of the Village of Newburgh Heights", which map is on file with the Clerk of Council, which map shall be deemed to accompany, be, and is hereby made a part of and incorporated into this ordinance, and which map bears on the margin thereof the signatures of the Mayor and Clerk of Council, as well as the signatures of each member of Council.
- (2) On such a map, the use district boundary lines are intended to follow the center lines of streets or alleys or their extensions, or lot lines or their extensions.

(b) Conform to Zoning Regulations. Except as otherwise provided herein, no building or premises shall hereafter be used, and no building or part thereof shall be erected, raised, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein established for the use district in which it is located.  
(Ord. 2017-49. Passed 12-5-17.)

**CHAPTER 1133**

**Use Regulations**

**1133.01 Overview.**

**1133.02 Allowable Uses Table.**

**1133.03 Prohibited uses.**

**1133.04 Adult entertainment businesses.**

**1133.01 OVERVIEW.**

(a) General. The Table of Allowable Uses lists the uses allowed within all base zoning districts. All uses are defined within Section 1103.02(c), Definitions, of this Code. Approval of a use listed within this table, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically allowed within the "Table of Allowable Uses" and approved under the appropriate process is prohibited.

(b) New and Unlisted Uses. The Village recognizes that new types of land use will develop, and various forms of land uses not originally anticipated in this code may seek to locate within the limits of the Village. When an application is made for a use category or use type that is not specifically listed within the Allowable Uses Table, the Planning Commission shall make a determination as to the appropriate classification of any new or unlisted form of land use in the following manner:

- (1) The Planning Commission shall provide an interpretation as to the zoning classification into which such use should be placed. In making such interpretation, the Planning Commission shall consider the nature of the use and whether it involves dwelling activity; sales; processing; type of product, storage and amount, and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and the general requirements for public utilities such as water and sanitary sewer.
- (2) Standards for new and unlisted uses may be interpreted as those of a similar use.
- (3) Appeal of the Planning Commission's decision shall be made to the Village Council following procedures under Chapter 1115, Appeals and Variances, of this Code. (Ord. 2017-49. Passed 12-5-17.)

**1133.02 ALLOWABLE USES TABLE.**

Table Interpretation.

- (a) Permitted-by-right Uses. "P" in a cell indicates that the use is permitted by right in the respective zoning district.
- (b) Conditional Uses. "C" in a cell indicates that, in the respective zoning district, the use is allowed only if reviewed and approved as a conditional use in accordance with the procedures of Chapter 1117, Conditional Use Permits, of this code.
- (c) Prohibited Uses. A blank cell indicates that the use is prohibited in the respective zoning district.

| P = Permitted C= Conditional  |  | Residential      | Mixed-Densities/Uses | Non-Residential/Other |    |    |   |    |
|-------------------------------|--|------------------|----------------------|-----------------------|----|----|---|----|
| Use Category                  | Use Type   | R                | MD-R                 | MU                    | PL | PF | C | LI |
| <b>Residential Uses</b>       |  |                  |                      |                       |    |    |   |    |
| Household Living <sup>1</sup> | Dwelling, Single                                     | P                | P                    | C                     |    |    |   |    |
|                               | Dwelling, Duplex                                     | P                | P                    | C                     |    |    |   |    |
|                               | Dwelling, Multi-Family                               | P/C <sup>2</sup> |                      | C                     |    |    |   |    |
|                               | Factory Built/Mobile                                 |                  |                      |                       |    |    |   |    |
|                               | Mixed-Use Residential Above Retail/Office/Commercial |                  | C                    | P                     |    |    | C |    |
|                               | Dwelling, Townhouse                                  |                  | P                    | P                     |    |    |   |    |
|                               | Dwelling, Live/Work                                  | C                | C                    | P                     |    |    |   |    |
| Group Living                  | Family Home  |                  |                      | C                     |    | C  | C |    |
|                               | Nursing Care, Home                                   |                  | P                    | P                     |    |    |   |    |

|   |                             |   |   |   |   |   |   |   |
|---|-----------------------------|---|---|---|---|---|---|---|
|   | Nursing Care, Facility      |   |   | C |   | P |   |   |
| <b>Public, Institutional &amp; Civic Uses</b> |                             |   |   |   |   |   |   |   |
| Community Facilities                          | Government, Civic Buildings |   |   | C | C | P | P |   |
|   | Public Safety Facility      | C | C | P | C | P | P | P |
|   | Social/Public Lodges        |   |   | C | C | P | P |   |
|   | Public Assembly             | C | C | P | C | P | P | P |

|                              |          |                    |                             |    |                              |    |   |    |
|------------------------------|----------|--------------------|-----------------------------|----|------------------------------|----|---|----|
| P = Permitted C= Conditional |          | <b>Residential</b> | <b>Mixed-Densities/Uses</b> |    | <b>Non-Residential/Other</b> |    |   |    |
| Use Category                 | Use Type | R                  | MD-R                        | MU | PL                           | PF | C | LI |

|                        |                           |   |   |   |   |   |   |   |
|------------------------|---------------------------|---|---|---|---|---|---|---|
| Child Care Facilities  | Child Care Center         |   | C | P |   | P | P |   |
|                        | Child Care, Home          | C | C | C |   |   |   |   |
| Healthcare Facilities  | Hospital/ER               |   |   | P |   | P | P | P |
|                        | Immediate Care Facility   |   |   | P |   | P | P |   |
|                        | Medical/Dental Office     |   | C | P |   | P | P |   |
| Parks & Open Space     | Athletic Fields/Courts    | C | C | P | P | P | P | P |
|                        | Community Garden          | C | C | P | C | P | P | P |
|                        | Open Space                | C | C | P | P | P | P | P |
|                        | Park                      | C | C | P | P | P | P | P |
| Educational Facilities | College/University        |   |   | C |   | C | C | C |
|                        | Elementary School         |   | C | P |   | P | C | C |
|                        | Middle School             |   |   | C |   | P | C | C |
|                        | High School               |   |   | C |   | P | C | C |
|                        | Trade/Vocational Training |   | C | P |   | P | C | C |

|                        |         |  |  |  |  |  |  |  |
|------------------------|---------|--|--|--|--|--|--|--|
| <b>Commercial Uses</b> |         |  |  |  |  |  |  |  |
| Agriculture            | Farming |  |  |  |  |  |  |  |
|                        | Stables |  |  |  |  |  |  |  |

|                              |          |                    |                             |    |                              |    |   |    |
|------------------------------|----------|--------------------|-----------------------------|----|------------------------------|----|---|----|
| P = Permitted C= Conditional |          | <b>Residential</b> | <b>Mixed-Densities/Uses</b> |    | <b>Non-Residential/Other</b> |    |   |    |
| Use Category                 | Use Type | R                  | MD-R                        | MU | PL                           | PF | C | LI |

|                                      |                                    |   |   |   |  |   |   |   |
|--------------------------------------|------------------------------------|---|---|---|--|---|---|---|
| Animal Services                      | Kennel                             |   |   | C |  | C | P | P |
|                                      | Veterinary Clinic                  |   |   | P |  | P | P | P |
| Financial Services <sup>3</sup>      | With a Drive-Thru                  |   |   | C |  | C | P | P |
|                                      | Without a Drive-Thru               |   |   | P |  | P | P | P |
| Food and Drink Services <sup>3</sup> | Restaurant with a Drive-Through    |   |   | C |  | C | P |   |
|                                      | Restaurant without a Drive-Through |   |   | P |  | P | P | P |
|                                      | Bar/Nightclub                      |   |   | C |  |   | P |   |
|                                      | Brewery/Distillery                 |   |   | C |  |   | P | P |
| Lodging Facilities                   | B & B/Inn                          |   | C | P |  |   | C |   |
|                                      | Campground/RV Park                 |   |   |   |  |   |   |   |
|                                      | Hotel/Motel/Lodge                  |   |   | P |  |   | P | P |
|                                      | Long-Term Rental, Dwelling         | C | C | C |  |   |   |   |
| Offices/ Business                    | < 5,000 sqft                       |   |   | C |  | P | P | P |
|                                      | > 5,000 sqft                       |   |   |   |  | P | P | P |
| Professional Services                | Dry Cleaning/Laundry               |   |   |   |  |   | P | P |
|                                      | General Services                   |   |   | C |  |   | P | P |

|                              |          |                    |                             |    |                              |    |   |    |
|------------------------------|----------|--------------------|-----------------------------|----|------------------------------|----|---|----|
| P = Permitted C= Conditional |          | <b>Residential</b> | <b>Mixed-Densities/Uses</b> |    | <b>Non-Residential/Other</b> |    |   |    |
| Use Category                 | Use Type | R                  | MD-R                        | MU | PL                           | PF | C | LI |

|                            |                                  |  |   |   |   |  |   |   |
|----------------------------|----------------------------------|--|---|---|---|--|---|---|
| Recreation & Entertainment | Adult Entertainment              |  |   |   |   |  |   | C |
|                            | Art Gallery                      |  |   | P |   |  | P | P |
|                            | Movie Theater                    |  |   | C |   |  | P | P |
|                            | Fitness Center/Indoor Recreation |  |   | P |   |  | P | P |
| Outdoor Recreation         | Golf Course/Driving Range        |  |   |   | P |  |   | C |
|                            | General, Outdoor Recreation      |  | C | C | P |  |   |   |
|                            | Greenhouse/Nursery               |  |   | C |   |  | P | P |
|                            | Grocery Store                    |  |   | P |   |  | P |   |

|                      |                        |  |  |   |  |   |   |   |
|----------------------|------------------------|--|--|---|--|---|---|---|
| Retail Sales         | Liquor Store           |  |  | C |  |   | P |   |
|                      | < 5,000 sqft           |  |  | P |  |   | P |   |
|                      | > 5,000 sqft           |  |  |   |  |   | P | P |
| Vehicles & Equipment | Parking Lot/Structure  |  |  | C |  | C | P | P |
|                      | Gas Station            |  |  | C |  |   | P | P |
|                      | Vehicle Sales/Rental   |  |  |   |  |   | P | P |
|                      | Vehicle Service/Repair |  |  |   |  |   | P | P |
| Medical Marijuana    | Dispensary             |  |  | C |  |   | C |   |

|                              |          |                    |                             |           |                              |           |          |           |
|------------------------------|----------|--------------------|-----------------------------|-----------|------------------------------|-----------|----------|-----------|
| P = Permitted C= Conditional |          | <b>Residential</b> | <b>Mixed-Densities/Uses</b> |           | <b>Non-Residential/Other</b> |           |          |           |
| Use Category                 | Use Type | <b>R</b>           | <b>MD-R</b>                 | <b>MU</b> | <b>PL</b>                    | <b>PF</b> | <b>C</b> | <b>LI</b> |

| Industrial Uses                  |   |  |  |   |  |   |   |   |
|----------------------------------|---|--|--|---|--|---|---|---|
| Industrial Service               | Building Materials Sales                        |  |  |   |  |   | C | P |
|                                  | Natural Resource Processing                     |  |  |   |  |   | C | P |
|                                  | General Industrial Services                     |  |  |   |  |   | C | P |
| Manufacturing & Production       | Assembly, Light                                 |  |  | C |  |   | P | P |
|                                  | Manufacturing, Light                            |  |  |   |  |   | C | P |
| Warehouse and Freight Movement   | Manufacturing, Heavy                            |  |  |   |  |   |   | C |
|                                  | Mini-Storage, Climate Controlled/Indoor Storage |  |  | C |  |   | P | P |
|                                  | Outdoor Storage Yard                            |  |  |   |  |   |   | C |
|                                  | Wholesale Factory                               |  |  |   |  |   | C | P |
| Telecommunications and Equipment | Tower/Antenna                                   |  |  |   |  | C |   | P |
| Waste & Salvage                  | Salvage/Junk Yard                               |  |  |   |  |   |   | C |

- Residential dwellings of any kind are strongly discouraged along the Harvard Avenue Corridor.
- No more than three (3) residential units are permitted within any multi-family structure located in a Residential District. The Village can grant a Conditional Use Permit (CUP) for up to four (4) units. At any time, no multi-family structure shall exceed four (4) total units.
- Establishments, regardless of use or size, are not permitted to have a drive-thru option for service of any kind along the Harvard Avenue Corridor. (Ord. 2017-49. Passed 12-5-17.)

**1133.03 PROHIBITED USES.**

- Billboards. Within the limits of the Village of Newburgh Heights, no billboards shall be erected or displayed.
- Corner Lots. On any corner lot on which a front yard line is established by this Code, no wall, fence or other structure shall be erected between such front yard line and the street line in such a manner as to obstruct the view of traffic across the corner.
- Specific Uses. Within the limits of the Village, the following shall be prohibited:
  - Trailer camps, stables or wagon sheds.
  - Lumber yards.
  - Stone quarry, gravel and sand pits, mining.
  - Sewerage disposal plant.
  - Scrap iron or junk storage, scrap, paper or rag storage, dismantling of motor vehicles.
  - Storage of oil or gasoline or other highly inflammable liquid in excess of one hundred (100) gallons, unless such oil or gasoline or other highly inflammable liquid shall have been buried in the ground with at least three feet of earth between such tanks and the surface of the ground.
  - Tanneries.
  - Glue factories.
  - Slag crushers.
  - Slaughter houses, establishments where poultry, fowl or animals of any nature may be slaughtered or dressed for consumption off the premises.
  - Nail manufacture.
  - Kiln plant for manufacture of bricks and/or cement blocks, cement manufacturing, cement or concrete mixing plants either portable or permanent, asphalt manufacturing and/or asphalt mixing plant.
  - Celluloid manufacture or storage.
  - Cemeteries and crematories.
  - Clay products manufacture.
  - Creosote manufacture or treatment plant.
  - Manufacture of dangerous explosives.
  - Blast furnace.
  - Bronze powder manufacture.
  - Manufacture of dyes, disinfectant or insecticide.
  - Manufacture or distillation of bones, coal or wood manufacture of any of their byproducts.
  - Black-smith shop.
  - Emery cloth or sandpaper manufacture.
  - Fat, grease, lard or tallow manufacturing, rendering or refining.
  - Fertilizer.

- (26) Manufacturing from organic or mineral water.
- (27) Gas (fuel or illuminating) manufacture from coal.
- (28) Gelatin or size manufacture.
- (29) Hydrochloric, hydrofluoric, nitric, phosphoric, picric, sulphuric or sulphurous acid manufacture.
- (30) Hair manufacture, incineration or reduction of dead animals, garbage, offal or refuse unless accumulated and consumed on the same premises without the emission of odor.
- (31) Lamp black or carbon manufacture.
- (32) Linoleum or oilcloth manufacture.
- (33) Match manufacture.
- (34) Metal or ore reduction or smelting.
- (35) Mineral insulation manufacture.
- (36) Nitrating of cotton or other cellulose material.
- (37) Paint, shellac, turpentine, lacquer, or varnish manufacture.
- (38) Production of or refining of petroleum or other inflammable liquids.
- (39) Rayon manufacture.
- (40) Rock crushing.
- (41) Rubber manufacture.
- (42) Soda, soda compounds or potash manufacture.
- (43) Steel manufacture.
- (44) Stock yards.
- (45) Stock feed manufacture from refuse.
- (46) Tanning, curing or storing of raw hides or skins.
- (47) Tar distillation or manufacture.
- (48) Tile or terra cotta manufacture.
- (49) Wool-pullings, or scouring, paper and pulp manufacture.
- (50) Airports.
- (51) Tents for residential purposes.
- (52) Open hearth furnaces.
- (53) Pool-rooms.
- (54) Any use involving the handling, transferring, treating or recycling, in any manner whatsoever, of any hazardous waste. This section shall not apply to any medical facility or business which handles, transfers, treats or recycles hazardous waste produced from its own operations. For purposes of this section, the term hazardous waste shall include any medical waste, toxic materials and/or waste, contaminated soil and any other materials which may present any significant threat to human or environmental health or safety.
- (55) Or any other establishment which may become a nuisance, annoyance of which in itself would depreciate the value of surrounding property.

(d) Property Owner Consent.

- (1) Whereas, certain structures, buildings, warehouses, manufacturing establishments, etc., are prohibited as described within the meaning of this Planning and Zoning Code, and whereas certain establishments, buildings, structures, etc., may be determined as an annoyance to the public or may be determined to depreciate surrounding property, the petitioning applicant may petition the surrounding property owners within the territory as prescribed by the Planning Commission and obtain consent of such surrounding property owners by petition, and if seventy-five percent (75%) of the legal property owners sign such petition consenting to such building, or structure, as the case may be, the Commission may, after holding a public hearing, deem such building or structure, as the case may be, not to be depreciating to the surrounding property, or hazard within the area of territory prescribed by the Commission.
- (2) Whenever the owners of fifty percent (50%) of the land in any area shall present a petition duly signed and acknowledged to the Council, requesting an amendment of the regulations prescribed for such area, it shall be the duty of Council to vote upon such amendment within ninety (90) days of the filing of same by the petitioners with the Clerk-Treasurer.

(Ord. 2017-49. Passed 12-5-17.)

**1133.04 ADULT ENTERTAINMENT BUSINESSES.**

(a) General.

- (1) Purpose. It is the purpose of this Chapter to regulate Adult Entertainment Businesses in order to promote the health, safety, moral and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Adult Entertainment Businesses within the Village. The provisions of this chapter do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor the effect of this chapter to condone or legitimize the distribution of obscene material.
- (2) Findings. The Village Council has received substantial evidence concerning the adverse secondary effects of adult uses on the community in findings incorporated in the cases of City of Fenton v. Playtime Theatres, Inc. 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1979), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Garden Grove, California; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; New York, New York; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington.

(b) Interpretation.

- (1) "Adult Bookstore, adult novelty store, or adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration, any one or more of the following:
  - A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", or
  - B. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

- (2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as adult bookstore, adult novelty store or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- A. "Adult cabaret" means a night club, bar, restaurant or similar commercial establishment which regularly features:
1. Persons who appear in a state of nudity or semi-nudity; or
  2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
  3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (3) "Adult motion picture" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (4) "Adult theater" means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
- (5) "Establishment" means and includes any of the following:
- A. The opening or commencement of any adult entertainment business as a new business.
  - B. The conversion of an existing business, whether or not an adult entertainment business, to any adult entertainment business.
  - C. The additions of any adult entertainment business to any other existing adult entertainment business.
  - D. The relocation of any adult entertainment business.
- (6) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
- (7) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- (8) "Semi-nudity" or in a "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.
- (9) "Adult entertainment business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
- (10) "Specified anatomical areas" means:
- A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
  - B. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.
- (11) "Specified sexual activities" means any of the following:
- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;
  - B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
  - C. Excretory functions as part of or in connection with any of the activities set forth in subsection (b)(11)A. and B., above.
- (12) Substantial enlargement of an adult entertainment business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor.
- (c) Classifications. Adult entertainment businesses are classified as follows:
- (1) Adult arcades.
  - (2) Adult bookstores, adult novelty stores, or adult video stores.
  - (3) Adult cabarets.
  - (4) Adult motion picture theaters.
  - (5) Adult theaters.
- (d) Location of Businesses.
- (1) No adult entertainment business may be established within three-hundred and fifty (350) feet of:
    - A. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
    - B. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergarten, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.
    - C. A boundary of a residential district as defined in this Code.
      - D. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Village which is under the control, operation or management of the Village park and recreation authorities.
    - E. The property line of a lot devoted to a residential use as defined in this Code.
    - F. An entertainment business which is oriented primarily towards children or family entertainment.
    - G. A licensed premise. Licensed pursuant to the alcoholic beverage control regulations of the State of Ohio.
  - (2) No adult entertainment business may be established, operated or enlarged within three-hundred and fifty (350) feet of another adult entertainment business.
- (e) Additional Regulations.
- (1) It shall be a first-degree misdemeanor for a person who knowingly and intentionally, in an adult entertainment business, appears in a state of nudity or depicts specified sexual activities.
  - (2) It shall be a first-degree misdemeanor for a person who knowingly and intentionally in an adult entertainment business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two (2) feet from the floor.
  - (3) It shall be a first-degree misdemeanor for an employee, while semi-nude in an adult entertainment business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee



is semi-nude in an adult entertainment business.

(4) It shall be a first-degree misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

(5) A person commits a first-degree misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of an adult entertainment business.

(f) Severability.

(1) If any section, subsection or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

(2) All ordinances or parts of ordinances in conflict with the provisions of this Chapter are hereby repealed.

(Ord. 2017-49. Passed 12-5-17.)

**CHAPTER 1135**

**Dimensional Requirements**

1135.01 **Overview.**

**1135.01 OVERVIEW.**

(a) General. All primary and accessory structures are subject to the dimensional standards set forth in the tables in this section. These general standards may be further limited or modified by other applicable sections of this Code.

(b) Dimensional Standards Table. See Dimensional Standards Table below.

|                                   | <b>Residential</b>  | <b>Mixed-Densities/Uses</b>   |   | <b>Non-Residential/Other</b> |  |  |  |
|-----------------------------------|---|---|---|------------------------------|--|--|--|
| <b>Dimensional Standard</b>       | <b>R</b>  | <b>MD-R</b>   | <b>MU</b>   | <b>PL</b>                    | <b>M</b>   | <b>C</b>                                     | <b>LI</b>                                    |
| Minimum Lot Width/Frontage        | 40 feet   | 40 feet   | 50 feet   | N/A                          | 100 feet   | 100 feet                                     | 100 feet                                     |
| Minimum Lot Depth                 | 120 feet  | N/A   | N/A   | N/A                          | N/A  | N/A  | N/A  |
| Maximum Height <sup>1</sup>       | 35 feet; does not include chimney which shall not exceed 3 feet in length or width                                | 45 feet; does not include chimney which shall not exceed 3 feet in length or width                                  | 45 feet   | 20 feet                      | 45 feet; does not include chimney which shall not exceed 3 feet in length or width | 3 stories or 45 feet from the finished grade | 3 stories or 35 feet from the finished grade |
| Minimum Front Setback             | Average of setbacks along street block  | 15 feet   | 0 or 5 feet   | N/A                          | 15 feet  | 0 or 5 feet                                  | 20 feet (40 feet is recommended)             |
| Minimum Rear Setback              | 20 feet   | 15 feet   | 15 feet   | N/A                          | 15 feet  | See Below                                    | See Below                                    |
| Adjacent to Residential           | 20 feet   | 15 feet   | 15 feet   | N/A                          | 15 feet  | 20 feet; 50 feet for warehouse and storage   | 20 feet; 50 feet for warehouse and storage   |
| Adjacent to Non-Residential       | 20 feet   | 15 feet   | 15 feet   | N/A                          | 15 feet  | 15 feet; 25 feet for warehouse and storage   | 15 feet; 25 feet for warehouse and storage   |
| Rear Yard Depth                   | Shall not be less than 15% of lot depth, but in no case less than 20 feet   | Shall not be less than 15% of lot depth, but in no case less than 15 feet   | 15 feet   | N/A                          | 15 feet  | 15 feet; 25 feet for warehouse and storage   | 15 feet; 25 feet for warehouse and storage   |
| Minimum Side Setback <sup>2</sup> | Shall not be less than 3 feet for any side yard and shall not be less than 10 feet for the sum of both side yards | Either no side yard and be on the property line or be located not less than ten (10) feet from the nearest building | Either no side yard and be on the property line or be located not less than ten (10) feet from the nearest building | N/A                          | 5 feet   | See Below                                    | See Below                                    |

|                             | <b>Residential</b> | <b>Mixed-Densities/Uses</b> |           | <b>Non-Residential/Other</b> |          |          |           |
|-----------------------------|--------------------|-----------------------------|-----------|------------------------------|----------|----------|-----------|
| <b>Dimensional Standard</b> | <b>R</b>           | <b>MD-R</b>                 | <b>MU</b> | <b>PL</b>                    | <b>M</b> | <b>C</b> | <b>LI</b> |

|                             |  |  |  |     |         |  |         |
|-----------------------------|--|--|--|-----|---------|--|---------|
| Adjacent to Residential     | Shall not be less than 3 feet for any side yard and shall not be less than 10 feet for the sum of both side yards. | Either no side yard and be on the property line or be located not less than ten (10) feet from the nearest building. | Either no side yard and be on the property line or be located not less than ten (10) feet from the nearest building. | N/A | 10 feet | 20 feet; 50 feet for warehouse and storage | 50 feet |
| Adjacent to Non-Residential | Shall not be less than 3 feet for any side yard and shall not be less than 10 feet for the sum of both side yards. | Either no side yard and be on the property line or be located not less than ten (10) feet from the nearest building. | Either no side yard and be on the property line or be located not less than ten (10) feet from the nearest building. | N/A | 5 feet  | 15 feet; 25 feet for warehouse and storage | 25 feet |

| <b>Minimum Dwelling Size <sup>3</sup></b> |   |   |   |     |     |     |     |
|---|---|---|---|-----|-----|-----|-----|
| Single Family Dwelling                    | 600 sqft for single story or 900 sqft for a two story | Must be consistent in design/scale to neighboring structures; 750 sqft            | Must be consistent in design/scale to neighboring structures; 750 sqft            | N/A | N/A | N/A | N/A |
| Duplex                                    | 1,250 sqft per unit                                   | Must be consistent in design/scale to neighboring structures; 1,250 sqft per unit | Must be consistent in design/scale to neighboring structures; 1,250 sqft per unit | N/A | N/A | N/A | N/A |

|              |                   |  |  |     |     |     |     |
|--------------|-------------------|--|--|-----|-----|-----|-----|
| Multi-Family | 600 sqft per unit | Building must be consistent in design/scale to neighboring structures; 600 sqft per unit | Building must be consistent in design/scale to neighboring structures; 600 sqft per unit | N/A | N/A | N/A | N/A |
|--------------|-------------------|--|--|-----|-----|-----|-----|

|                      | Residential | Mixed-Densities/Uses |    | Non-Residential/Other |   |   |    |
|----------------------|-------------|----------------------|----|-----------------------|---|---|----|
| Dimensional Standard | R           | MD-R                 | MU | PL                    | M | C | LI |

|  |                                       |  |  |     |     |  |                |
|--|---------------------------------------|--|--|-----|-----|--|----------------|
| Townhouse  | 1,250 sqft per unit                   | Building must be consistent in design/scale to neighboring structures; 1,250 sqft per unit | Building must be consistent in design/scale to neighboring structures; 1,250 sqft per unit | N/A | N/A | N/A  | N/A            |
| Mixed-Use Residential Above Retail/Office/Commercial | N/A                                   | Building must be consistent in design/scale to neighboring structures; 600 sqft per unit   | Building must be consistent in design/scale to neighboring structures; 600 sqft per unit   | N/A | N/A | Building must be consistent in design/scale to neighboring structures; 600 sqft per unit | N/A            |
| Maximum Lot Coverage                                 | 33% of the lot for principal building | 35% of the lot for principal building  | 35% of the lot for principal building  | N/A | N/A | 35% of the lot   | 35% of the lot |
| Maximum Housing Density                              | N/A                                   | 12 dwelling units per acre   | N/A  | N/A | N/A | N/A  | N/A            |
| <b>Accessory Buildings/Uses</b>                      |                                       |  |  |     |     |  |                |
| Rooming Unit   | 1 per household                       | 1 per household  | None (0)   | N/A | N/A | N/A  | N/A            |

|                      | Residential | Mixed-Densities/Uses |    | Non-Residential/Other |   |   |    |
|----------------------|-------------|----------------------|----|-----------------------|---|---|----|
| Dimensional Standard | R           | MD-R                 | MU | PL                    | M | C | LI |

|                 |   |   |   |   |   |   |   |
|-----------------|---|---|---|---|---|---|---|
| Private Garages | 1 garage per lot; Max area 240 sqft; Max size 27 feet wide x 27 feet deep; Not closer than 3 feet from either the side/rear lot lines; Max height 18 feet to peak of gable; Not closer than 10 feet to principal building if detached | 1 garage per lot; Not closer than 3 feet from either the side/rear lot lines; Max height 18 feet to peak of gable; Not closer than 10 feet to principal building if detached; appropriateness will be determined by the Planning Commission | None (0)  | N/A   | N/A   | N/A   | N/A   |
| Storage Sheds   | Max area 80 sqft; Max height 10 feet; Not closer than 3 feet from either the side/rear lot lines; Not closer than 10 feet to principal building   | Any accessory buildings/structures shall not take up more than 30% of the lot and shall be designed in such a manner to blend with the principal building   | Any accessory buildings/structures shall not take up more than 30% of the lot and shall be designed in such a manner to blend with the principal building | Any accessory buildings/structures shall not take up more than 30% of the lot and shall be designed in such a manner to blend with the principal building | Any accessory buildings/structures shall not take up more than 30% of the lot and shall be designed in such a manner to blend with the principal building | Any accessory buildings/structures shall not take up more than 30% of the lot and shall be designed in such a manner to blend with the principal building | Any accessory buildings/structures shall not take up more than 30% of the lot and shall be designed in such a manner to blend with the principal building |

- 1 Elevator housings or other rooftop mechanical equipment shall not exceed fifteen (15) feet in height above the top of any structure. Also, the industrial district: Chimneys, flagpoles, water tanks or cooling towers may be constructed up to a height of one hundred (100) feet if they are an integral part of the building and are located no closer than one hundred (100) feet from an adjoining property or a right-of-way.
- 2 As an exception to the above side yard requirements, the minimum side yard on a corner lot which faces the street shall be ten (10) feet. The minimum sum of both side yards for a corner lot shall be thirteen (13) feet.
- 3 All residential dwellings within the Residential District (R) are required to be constructed with a basement at a minimum of 600 sqft in size for single family and 625 sqft in size for duplexes.  
(Ord. 2017-49. Passed 12-5-17.)

**CHAPTER 1137**

**Development and Design Standards**

- 1137.01 Mixed-Use District standards.**
- 1137.02 Harvard Avenue standards.**
- 1137.03 Landscape and screening standards.**
- 1137.04 Village signage.**
- 1137.05 Recreation vehicles.**
- 1137.06 Off-street parking standards.**

1137.07 Solar panels.

**1137.01 MIXED-USE DISTRICT STANDARDS.**

(a) General.

- (1) This section is intended to promote high-quality mixed-use building design, encourage visual variety throughout the community, foster a more human scale and attractive street fronts, and to project a positive image to promote economic development within the Village.
- (2) All proposed mixed-use and mixed-density residential projects are required to submit a site plan with the elements described within Section 1111.03(b), Review Checklist, of this Code.

(b) Building Orientation and Siting.

- (1) Any building constructed within a mixed-use district shall seek to preserve any natural elements, including trees, within the property.
- (2) The design shall be compatible with neighboring structures, but shall be distinctly different to help facilitate diversifying street frontages.
- (3) Development shall respond to specific site conditions and opportunities such as odd-shaped lots, location on prominent intersections, unusual topography, the protection of view corridors, significant vegetation, and/or other natural features to the maximum extent feasible.

- (c) Corner Lots. Buildings located on street corners shall recognize the importance of their location by the following:
  - (1) Concentrating taller structures and facades near the corner to help frame intersections.
  - (2) Utilizing architectural features to pronounce the structure's entrance and to enhance the streetscape and pedestrian experience.
- (d) Site Design.
  - (1) The overall site design shall take into account pedestrian routes and nearby recreational uses to reduce contact with vehicular traffic
    - A. Pedestrian scale design could include: safe crossing points with appropriate signage, landscaped features, benches, planters, trash cans, bike racks and bike parking, drinking fountains, etc.
  - (2) New developments are required to install sidewalks along street frontage and shall provide other pedestrian improvements throughout their site.
  - (3) Parking is not required, but strongly encouraged and shall be located within side or rear yards where such parking areas can be partially or wholly screened by buildings from the public right-of-way.
    - A. This could include shared parking arrangement, on street or metered parking, parking structures, smaller rear or side located surface lots, etc.
- (e) Building Design.
  - (1) A wide range of building types are likely to occur, and the Planning Commission shall have final approval over design, colors, materials, etc.
  - (2) The architectural character of new buildings or additions shall complement the architectural character of adjacent existing buildings.
  - (3) Four-sided design. All building facades shall be designed with a similar level of design detail. Blank walls and facades void of architectural detailing shall not be permitted. Exceptions may be granted for those areas of the building envelope that the applicant can demonstrate are not visible from adjacent development or public rights-of-way.
  - (4) Entrance visibility. Buildings should be designed with delineated and unobstructed entries accessible from adjacent streets, as opposed to entries accessible only from parking lots. When entries cannot be located adjacent to the street, delineated and unobstructed pathways using building and landscape elements should enhance building entries.
  - (5) Flat roof forms and "box-like" structures are strongly discouraged.
  - (6) Mixed-use structures shall include retail or office space on the lower levels and can include residential on the second story.
  - (7) Street level transparency. A minimum of forty (40%) percent of the first level shall be comprised of glass or transparent window openings. Mirrored or opaque glass shall not be permitted on the first level.
  - (8) Buildings should be unique and appropriate to the community and should not be recognizable by its architecture as a standard trademark design. Generic franchise architecture shall not be acceptable.
  - (9) Buildings shall have a "zero" front setback from the right-of-way line OR have a five (5) foot front setback to accommodate outdoor seating and dining.
- (f) Mixed Density Residential.
  - (1) The Mixed-Density Residential District shall adhere to the standards within Section 1137.01, Mixed-Used District Standards, but shall also support the following objectives:
    - A. Encourage ingenuity and resourcefulness in land planning techniques by developing functional open spaces for residents.
    - B. Allow the design of developments that are architecturally and environmentally innovative and that achieve efficient utilization of land.
    - C. Accommodate a mixture of residential uses that are compatible and complementary to neighboring development.
    - D. Ensure the conservation of the natural environment including trees and vegetation, topography, and geological resources such as groundwater, soils, and drainage areas.
    - E. Encourage efficient use of land, street networks, and utility locations.
    - F. Maintain compatibility with nearby development and consistency with future land use.
  - (2) Dedicated parking areas and spaces are required and shall adhere to the standards within Section 1137.06, Off-Street Parking Standards, of this Code.  
(Ord. 2017-49. Passed 12-5-17.)

#### **1137.02 HARVARD AVENUE STANDARDS.**

- (a) General.
  - (1) The purpose of this section is to provide additional, corridor standards for Harvard Avenue that travels through Newburgh Heights.
  - (2) This includes both the North and South sides of Harvard Avenue and any property that immediately abuts the right-of-way of Harvard Avenue.
  - (3) Any standards or regulations established within this section are in addition to the existing, underlying zoning of a parcel.
- (b) Development Standards and Circulation.
  - (1) These standards are established to protect the public investment in a major corridor and ensure that this can continue to serve its primary function of moving volumes of traffic safely.
  - (2) Provisions within this section are therefore intended to expedite the free flow of traffic and reduce the hazards arising from unnecessary points of ingress and egress and cluttered roadside development.
  - (3) Curb cuts directly on Harvard Avenue are strongly discouraged and side street/rear access points shall be preferred.
  - (4) Residential dwellings of any kind are strongly discouraged along the Harvard Avenue corridor.
  - (5) Establishments, regardless of use or size, are not permitted to have a drive through option for service of any kind along the Harvard Avenue corridor.
- (c) Parking Standards.
  - (1) Parking areas shall be located within side and/or rear yards where such parking areas can be partially or wholly screened by buildings from the public right-of-way.
  - (2) Parking standards shall comply with the standards established within Section 1137.03, Landscaping and Screening Standards, and Section 1137.06(b), Required Number of Spaces, of this code.
- (d) Building Design and Site Layout.
  - (1) The main entrance to any storefront shall be along the Harvard Avenue Corridor.
  - (2) All development along Harvard Avenue shall be planned to incorporate pedestrian connections to any frontage from parking areas and/or neighboring structures or uses.
  - (3) Buildings shall have a "zero" front setback from the right-of-way line OR have a five (5) foot front setback to accommodate outdoor seating and dining.
- (e) Mixed-Use Option.
  - (1) The Building Commissioner and the Planning Commission will consider development along the Harvard Avenue Corridor that includes a

mixed-use, office component as a conditional use.

- (2) Mixing an office use within any retail or commercial structure will be held to the design standards described within Section 1137.01, Mixed-Use District Standards, of this Code.
- (3) The Planning Commission will have the final determination in any site plans and/or design considerations.
- (4) Parking will be a required element of the site plan submittal and shall adhere to the standards within Section 1137.06, Off-Street Parking Standards, of this Code. (Ord. 2017-49. Passed 12-5-17.)

### **1137.03 LANDSCAPING AND SCREENING STANDARDS.**

(a) General. This section is intended to ensure that new landscaping and the retention of existing vegetation is an integral part of all development and that it contributes added high quality to development, retains and increases property values, and improves the environmental and aesthetic character of the community. It is also the intent of this section to provide flexible requirements that encourage and allow for creativity in landscape design.

(b) Parking Lot Landscaping.

- (1) Screening from street. The parking setback adjacent to any public street shall include a partial visual screen to minimize the motorist's view of parking areas and aisles. Such a screen shall include plantings and shall be a minimum of six (6) feet deep of continuous coverage starting from the sidewalk or street and shall traverse the complete length of street frontage; with the exception of ingress and egress points for the site. In addition to plantings, the screen may include decorative fencing. Such a screen shall provide a year-round opacity of at least fifty percent (50%) up to a height of two and one half (2-1/2) feet. Landscaping shall include a minimum on average of one tree per thirty (30) feet of parking lot frontage.
- (2) Decorative Fencing. Decorative fencing shall not exceed three (3) feet above grade level and shall not be located on earthen berms. For Light-Industrial Districts, decorative fencing shall not exceed eight (8) feet in height.
- (3) Landscaping within parking lot. Any parking lot containing more than 6,000 square feet of area, or twenty (20) or more vehicular parking spaces, shall provide interior landscaping. A minimum of five percent (5%) of the area of a parking lot shall be devoted to landscaping within the parking lot. This landscaped area shall be in addition to any street screening and buffer landscaped area. All landscaped areas shall be a minimum 100 square feet in area, shall not measure less than an average five (5) feet in any dimension and shall include a tree. Landscaped areas larger than the minimum area shall include one (1) tree for every one-hundred seventy-five (175) square feet or fraction thereof, of landscaped area.
- (4) Size of trees. At the time of planting, trees shall be a minimum eight (8) feet in height and two and one half (2 1/2) inches in caliper.

(c) Screening.

- (1) Equipment. All commercial compactors, storage bins, refuse containers and mechanical equipment shall be contained wholly within enclosed buildings, or enclosed by a masonry wall, excluding concrete block, or fence of such nature and height as to conceal completely all operations thereof from grade level.
- (2) Loading areas. All loading areas shall be screened to the extent deemed reasonable and practical by the Planning Commission to minimize visibility from adjacent streets and property lines.
- (3) Outdoor storage. Installation is required of screening with a year-round opacity of at least eighty percent (80%) of sufficient height to conceal the outdoor storage from view from the ground level on adjoining properties and from the street. Screening shall be accomplished through plantings, earthen berms, fencing, masonry walls, excluding concrete block, or a combination thereof.
- (4) Vehicles. Outdoor storage of vehicles (automobiles, vans, sport utility vehicles, light trucks) shall be permitted provided that the vehicles are normally associated with the main use of the property and are screened and landscaped pursuant to the requirements for parking lots.

(d) Buffer Areas.

- (1) Screening or buffering shall be provided as required in this section when any use permitted in a non-residential district abuts a residential district.
- (2) Property lines. Buffer areas shall be adjacent to all property lines which abut properties in residential districts. This applies to side lot lines and rear lot lines.
- (3) Width. Buffer areas shall be a minimum of ten (10) feet wide.
- (4) Composition. Screening shall be accomplished through plantings, earthen berms, fencing, masonry walls (excluding concrete block), or a combination thereof. The height of the screening shall be a minimum six (6) feet high and the screening shall provide a year-round opacity of at least eighty percent (80%) up to a height of six (6) feet at the time of installation. Fencing shall be constructed so that the finished side is toward the residential property. Living ground cover including grass, shall be provided throughout the buffer area. The screening shall contain a minimum of one tree per thirty (30) linear feet of buffer area length.
- (5) Maintenance responsibility. The owner of the buffer area shall be responsible and obligated to maintain the area.

(e) Lighting Standards.

- (1) The general purpose of this section is to require outdoor lighting that is adequate for safety and convenience, in scale with the activity to be illuminated and its surroundings, directed to the surface or activity to be illuminated, and designed to contribute to a pleasant and safe night environment.
- (2) Flood lighting or other lighting of playfields, buildings, signs and parking areas shall be located and designed so as to completely shield the light source from adjoining residences and the public right-of-way.
- (3) Exterior lighting shall be provided for the safety and convenience of users, but shall not be of excessive brightness and shall be placed in such a way so as to minimize glare on neighboring properties or the public right-of-way.

(f) Residential Landscaping Maintenance.

- (1) The purpose of this section is to set forth general standards as to how residential areas shall be maintained and contribute to the overall health, safety and wellness of the community as a whole.
- (2) Residents shall provide maintenance of all landscaping in a way that presents a healthy, neat and orderly appearance. All landscaping shall be maintained free from disease, pests, weeds and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed, consistent with acceptable horticultural practices.
- (3) Landscaping and barrier hedges are required to be trimmed and maintained in a healthy and neat condition and shall not extend onto or over public properties, rights-of-way or easements.

(Ord. 2017-49. Passed 12-5-17.)

### **1137.04 VILLAGE SIGNAGE.**

(a) General.

- (1) It is the intent of this Chapter to provide for the placement, location and size of signs in a sensible manner in the interest of promoting the general health, safety and welfare of residents of Newburgh Heights. As more specifically set forth herein, the purposes of these sign regulations are to:

- A. Promote and maintain attractive, high value residential, commercial, and industrial districts and public lands and streets by preventing the blighting influence of excessive signage.
  - B. Provide reasonable, yet appropriate, conditions for identifying residential developments, institutions, public facilities, businesses and industrial establishments.
  - C. Control the size and location of signs so that signs will be aesthetically harmonious with both their surroundings and the design of adjacent buildings.
  - D. Control the number of signs in order to provide an attractive and uncluttered environment.
  - E. Eliminate any conflict which would be hazardous between identification signs and traffic control signs and devices.
  - F. Ensure that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment by discouraging signs which are confusing and distracting due to the number of colors, size, location, or glare of lights, thereby preventing hazards to pedestrians and motorists.
  - G. Provide review procedures which enable the Village to comprehensively evaluate the appropriateness of the sign to the site, building and surroundings.
  - H. Provide for the control of temporary signs to avoid the unsafe conditions and blighting influence of excessive and/or deteriorating temporary signage.
  - I. Prohibit all signs not expressly permitted by this Code.
- (2) In establishing these purposes, the Village has determined that signs which do not comply with these regulations are a public nuisance. Unregulated signs are unduly distracting to motorists and pedestrians, and thereby create a traffic hazard and reduce the effectiveness of signs needed to direct the public.
- A. The signs of least value to the people of Newburgh Heights are those which carry commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located.
  - B. In view of the foregoing, all signs not conforming to the provisions of this chapter are hereby declared a nuisance. It is further declared that the regulations contained in this chapter are the minimum regulation necessary to abate the nuisance and to achieve the purposes of this Chapter.
- (b) Establishing Regulations.
- (1) Signs shall be designed, erected, altered, reconstructed, moved and maintained, in whole or in part, in accordance with the type, design, size, location, illumination and other provisions set forth in this chapter.
  - (2) The construction, erection, safety and maintenance of all signs shall be in accordance with the Village Building Code. The provisions of this chapter shall not amend or in any way interfere with other codes, rules or regulations governing traffic signs within the Village.
  - (3) As used in this chapter the term "Designated Building Official" refers to the Building Commissioner, Building Inspector or their designees.
- (c) Definitions and Classifications.
- (1) General Sign Definition. A "sign" means any display, graphic, figure, painting, drawing, placard, poster or other device visible from an outdoor location which is designed, intended or used to convey a message, advertise, inform or direct attention to a person, establishment, institution, organization, activity, place, object, product or service. A "sign" may be a device, structure, fixture, or part thereof, painted on or attached directly or indirectly to another structure.
  - (2) Classification of Signs by Use Type:
    - A. **Billboard.** A sign which is primarily intended to direct attention to a specific business, product, service, entertainment or any activity sold, offered or conducted elsewhere than upon the same lot or premises on which the sign is located and which may contain noncommercial messages.
    - B. **Bulletin board.** A sign for the display of announcements of a public or semi-public institution which is located on the grounds of that institution.
    - C. **Business sign.** A sign which is primarily intended to advertise the name of the business or establishment, the goods or commodities sold and/or brand names thereof, or services rendered on the lot or premises which the sign is located, and which may, subject to the provisions of this Chapter, contain noncommercial messages. The terms "advertise" and "brand names" distinguish business signs from identification signs.
    - D. **Community identification sign.** A temporary or permanent identification or directional sign for the purpose of providing information and directions to the public, quasi-public, religious, educational, and major recreational facilities in the Village.
    - E. **Community special event sign.** A temporary sign erected by a public or semi-public body which announces a public function. It may be located in the street right-of-way abutting any type of zoning district upon approval of the Mayor or of his/her designee.
    - F. **Construction sign.** A temporary sign directing attention to the promotion, development, construction of a building or subdivision on the parcel of land on which the sign is located and which identifies individuals or businesses involved with the construction. Construction signs shall include temporary home improvement signs.
    - G. **Directional sign.** A sign which indicates a direction or a location to which vehicles or pedestrians are requested to move.
    - H. **Identification Sign.** A sign primarily intended to identify the name, owner or manager of a building, business, institution, residential development or other use. It may also include the address.
    - I. **Informational sign.** A sign not intended to promote a specific business, product or issue but to provide general information to the public on such topics as places for lodging, eating and vehicle service; weather, time, places of historic and natural significance, outdoor recreation and similar information.
    - J. **Instructional sign.** An exterior sign that has a purpose secondary to the use on the lot that is intended to instruct employees, customers, visitors or users as to: specific parking requirements; the location or regulations pertaining to specific activities on the site or in the building; security system advisories; specific services offered, or methods of payment accepted. Examples of instructional signs include "Restrooms Inside", "Parking for Customers only", "Parking for Residents only". No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered an Instructional Sign.
    - K. **Memorial sign.** A sign indicating the name of a building, the date of construction and/or incidental information about its construction or historical significance, which sign is cut into a masonry surface or made of bronze or other permanent material, and mounted at the time the building was constructed or affixed to the building or premises subsequent to a structure or site being designated as a historical landmark.
    - L. **Menu board.** A sign that identifies and names items and services being provided to drive-through, drive-up or walk-up customers.
    - M. **Nameplate.** A sign which indicates the name, address and/or profession of the person or business occupying a lot or building.
    - N. **Political sign.** A temporary sign advocating action on a public issue on ballot or indicating a candidate for public office.
    - O. **Real estate sign.** A temporary sign advertising the sale, rental or lease of the premises, or part of the premises, on which the sign is

displayed.

- P. Temporary sign. A sign designed for use for a limited time period which communicates special events or sales, the sale or lease of property, political viewpoints or other matters.
- Q. Temporary promotional sign. A temporary sign intended to announce special events, promotions or sales.
- R. Traffic sign. Signs that direct vehicular traffic on roadways, such as "Stop", "Slow", "No Turn on Red", "No Parking Here to Corner", route signs, street name signs, etc. Such signs shall conform to the standards of the Ohio Department of Transportation and are exempt from this ordinance.
- S. Unified directory sign. A wall sign erected to identify each business or tenant located within the building.

(3) Classification of Signs by Structural Type:

- A. Animated sign. A sign that uses movement or change of lighting including revolving, rotating, whirling, spinning and flashing to depict action or create a special effect or scene. Animation shall be considered any change or movement more frequent than once per twenty-four hours.
  - B. Awning sign. A sign painted on, printed on, embossed, or attached against the surface of an awning. An awning is defined as a roof-like structure projecting from and supported by the exterior wall of a building constructed of fabric or light gauge materials on a supporting framework.
  - C. Banner. A sign constructed of fabric or any non-rigid material with no enclosing framework.
  - D. Canopy sign. A sign painted, embossed, affixed or attached to the soffit or fascia (vertical surface) of a canopy. A canopy is defined as a primarily horizontal roof-like structure constructed of rigid materials either attached to a building or freestanding (in the case of automobile service station canopies over gas pumps).
  - E. Changeable copy sign. A sign or portion of a sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.
  - F. Electronic Message Center. A sign that typically contains LED lights and is capable of displaying text, images, symbols, etc. that can be remotely or automatically changed at any given time.
  - G. Exposed neon sign. A sign using neon tubing as a light source and sign, with the neon tube either totally exposed or covered only by a clear or transparent face so that the illuminated neon tube is visible.
  - H. Flag. An object, typically of lightweight fabric material, containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision or other entity.
  - I. Freestanding sign. A sign supported by structures or supports that are anchored in the ground and that are independent from any building. All freestanding signs are further classified structurally as either Monument Signs or Pole Signs.
  - J. Mansard sign. A sign attached to a mansard structure. A mansard is a roof, or structure covered in roofing materials, having two slopes, with the lower slope almost vertical and the upper slope almost horizontal.
  - K. Marquee sign. A sign attached to a marquee. A marquee is a permanent roof-like structure of rigid materials supported by and extending from the facade of a building. A marquee sign shall be affixed or attached to a vertical surface on the marquee structure.
  - L. Monument sign. A Freestanding Sign having fifty percent (50%) or more of the bottom of the sign in contact with the ground or supporting structure.
  - M. Pennant. An object or sign of lightweight fabric or similar material, whether or not containing a message of any kind, and designed to move in the wind, also including streamers, pinwheels, balloons and similar small objects.
  - N. Pole sign. A Freestanding Sign having more than fifty percent (50%) of the bottom of the sign separated from the ground by the air.
  - O. Portable sign. A sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be readily transportable on wheels; signs designed as "A" or "T" frames; menu and sandwich board signs; all inflatable objects used as advertising devices; products stacked in the manner of a sign; umbrellas used for advertising; and signs attached to or painted on vehicles or trailers parked and visible from the public right-of-way.
  - P. Projecting sign. A sign erected on the outside of a building and projecting out at an angle therefrom at a distance greater than twelve (12) inches.
  - Q. Roof sign. A sign erected partly or completely on or over the roof of any building or above or over any portion of the building covered by roofing materials or above or over the top edge of a building wall or sign fascia.
  - R. Suspended sign. A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
  - S. Wall sign. A sign erected parallel to, affixed to, or painted on the outside wall of any building, and not extending more than twelve (12) inches therefrom, and which does not project above the roofline or beyond the corner of the building.
  - T. Window sign. A sign painted on, attached to, or suspended directly behind a window or the glass portion of a door, within one to five (5) feet from the inside window or door, and which is meant to be read from outside the building.
  - U. Yard sign. A freestanding temporary sign in a yard, including construction, political, and real estate signs and temporary promotional signs where permitted.
- (d) Prohibited Signs. All signs not expressly permitted under this Code or exempt from regulation hereunder in accordance with the previous section are prohibited within the Village. Such signs include, but are not limited to:
- (1) Animated signs, as well as exposed light bulbs and strings of lights not permanently mounted to a rigid background, except those exempt under the previous section; and other similar features including sound or smoke.
  - (2) Balloons used as advertising devices.
  - (3) Banners, except as temporary signs with a permit.
  - (4) Billboards.
  - (5) Exposed Neon Signs except as specifically approved as described in subsection (h) hereof, Signage Illumination, of this Code.
  - (6) Flashing Signs which consist of a light which is intermittently on and off.
  - (7) Mansard Signs, unless the sign is attached to a vertical sign fascia wholly below the eaves of the mansard and parallel to the surface of the exterior wall that supports the mansards.
  - (8) Pennants/Streamers/Spinners.
  - (9) All Portable Signs, except as temporary signs with a permit.
  - (10) All Roof Signs.
  - (11) Searchlights and spotlights used as advertising devices.
  - (12) Signs that obstruct required windows or doors or fire escapes or interfere with other safety provisions as may be further regulated in the Building Code, the Ohio Basic Building Code and the Ohio Fire Code.
  - (13) Signs obstructing street sight lines of traffic control lights or signs at street intersections, or signs obstructing street sight lines or signals at railroad crossings or signs containing any words or symbols that would cause confusion because of their resemblance to

highway traffic control or directional signals.

- (14) Damaged and unsafe signs, including signs within safety clearances of electrical and utility lines.
  - (15) Three dimensional objects on a roof or pole.
  - (16) Paper posters applied directly to a wall, building, pole, or other support.
  - (17) Pole Signs.
  - (18) Electronic Message Centers (Prohibited in Residential and Mixed-Density Residential Districts only)
  - (19) Off-site signage; unless specifically permitted under the provisions of this Chapter and/or approved by the Building Commissioner or Planning Commission.
- (e) Exempt Signs. The following signs shall be exempt from regulation under this Code, except as specified in this section:
- (1) Any public notice, warning, or traffic sign required by a valid and applicable federal, state, or local law, regulation, or ordinance.
  - (2) Traffic signs on private property which conform to the Ohio Manual of Uniform Traffic Control Devices (MUTCD) of the Ohio Department of Transportation.
  - (3) Required public purpose and safety signs as needed to achieve the intended public purpose which contain no commercial message of any sort.
  - (4) Address numbers not to exceed two (2) square feet in area.
  - (5) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the building in which such sign is located.
  - (6) Matter appearing on or adjacent to entry doors including "Push", "Pull", "Open" or "Closed" signs, not exceeding one (1) square foot in area per establishment.
  - (7) Matter appearing on windows or doors of retail or service establishments denoting hours of operation, credit cards accepted, and similar information, not exceeding a cumulative total of one square foot in area per establishment.
  - (8) Works of art that do not include a commercial message.
  - (9) Religious and other seasonal lights and decorations containing no commercial message when displayed during the appropriate time of year.
  - (10) Flags of the United States, the State, the Village, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. The height of such flags shall not exceed twenty (20) feet in residential districts and thirty-five (35) feet in nonresidential districts. Any flag not meeting these conditions shall be considered a sign and shall be subject to regulations as such.
  - (11) Vehicles regularly and customarily used to transport persons or property for a business, parked so that they are not visible from the public right-of-way.
  - (12) Memorial signs less than four (4) square feet in area and all monuments within a cemetery.
- (f) Measurement Standards. The size of signs is regulated in this chapter by relating the gross area of signs to the building or use of a lot, or to the size of the building unit to which the sign is accessory.
- (1) The gross area of signs for a building or use shall include all permanent surfaces visible from a public way and shall be measured for all signs except projecting or pole signs as follows:
    - A. The area of the surface, or surfaces of an opaque or translucent panel used or intended for displaying a message; PLUS
    - B. The area within the smallest rectangle enclosing a sign composed of letters or characters which are individually attached to a building wall or other structural element not designed as a panel; PLUS
    - C. The area of permanent window or door signs.
  - (2) Whenever the gross area of any sign is related to the size of the building or lot, the frontage of a building shall be the width of the facade of the building, business, office, or industrial unit which faces the principal street, or the facade containing the main entrance of a business office, or industrial building.
  - (3) Buildings or lots having frontage on a second street or a secondary entrance to a parking area may be permitted additional signs along such secondary streets which shall, however, not exceed twenty-five percent (25%) of the area of the signs permitted along the main facades.
  - (4) Projecting or Monument Signs. The area of any double or multi-faced sign shall have only one face, the largest one--should the faces differ in size--counted in calculating the area of the sign, and the measurable area shall be the entire area within a single, continuous perimeter composed of squares or rectangles which enclose the extreme limits of the advertising message.
- (g) Design Requirements. Signs, as permitted in all use districts, shall be designed to be compatible in character and style with regard to materials, color and size of the building, other signs designed or located on the same building, and other signs on adjoining buildings in order to produce an overall united effect, and in accordance with the standards set forth in this section. Signs shall be reviewed with respect to each of the provisions of this section and shall require approval by the Planning Commission.
- (1) Continuity. Signs shall be considered in relationship to their surrounding environment and, if seen in series, should have a continuity of design.
  - (2) Style and Color. The style of a sign shall be generally consistent throughout the particular building or block involved; the color of signs shall be a component of the color of the building facade and the total number of colors on a sign shall be limited to four.
  - (3) Lettering. The lettering on a sign shall be large enough to be easily read, but not overly large or out of scale with the building upon which it is placed. An excessive amount of information on signs, where visual clutter could create a potential safety hazard to motorists or pedestrians, shall not be permitted.
  - (4) Structural Design. Any graphic, other sign structure, marquee, canopy or awning as defined in this chapter, shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of net surface area, allowing for wind from any direction, and shall be constructed to withstand loads as required in the American Standards Association Standard A60.1, as amended and as provided herein. Signs shall not be attached to parapets.
  - (5) Vertical Clearance. The lowest member for all signs which project or are supported on posts shall not be less than eight (8) feet above the finished grade of a sidewalk or any other pedestrian way; and, if located over a pavement used for vehicular traffic or within twenty-four (24) inches of the vertical projecting of the edge of such pavement, the lowest member of signs shall not be less than sixteen (16) feet above the finished pavement.
  - (6) Relation to Traffic Devices. Signs shall not be erected so as to obstruct sight lines along any public way, traffic control lights, street name signs at intersections, or street sight lines (30 feet each direction from corner properties) or signals at railroad grade crossings. Signs visible from the sight lines along a street shall not contain an arrow or words such as "stop", "go", "slow", etc., and the movement, content, coloring or manner of illumination shall not resemble highway traffic signs.
- (h) Signage Illumination.
- (1) Temporary Signs. Temporary signs shall not be illuminated.
  - (2) Excessive Brightness. Light sources to illuminate permanent signs located inside or outside of buildings shall not be of excessive brightness

or cause glare hazardous to pedestrians or drivers of automobiles, or be objectionable to adjacent residential districts.

- (3) Residential, Mixed-Density Residential, and Parkland Districts. Signs in Residential, Mixed-Density Residential, and Parkland Districts shall not be illuminated except, at the discretion of the Planning Commission, residential identification monument signs and public facility identification signs. Identification signs in the Residential, Mixed-Density Residential, and Parkland Districts shall be illuminated by external means only. Internally illuminated signs shall not be permitted within any Residential or Parkland Districts.
- (4) Colored Light. The colors red, yellow, or green shall not be used where they may interfere with the sight lines of a traffic signal. White is the only color of light which is permitted for institutional activities or in areas designated as residential or within five hundred (500) feet of such areas. Holiday lighting during the holiday season shall not be restricted by the foregoing regulations.
- (5) Neon Tubing. Use of exposed neon tubing and signage in marquee, wall and window signs shall be approved or disapproved at the discretion of the Planning Commission after reviewing the location, brightness, zoning district and proximity to public streets and residential areas.
- (6) Monument Sign Lighting (In Districts other than Residential, Mixed-Density Residential, and Parkland). Illumination of monument signs shall be limited to external lights for indirect lighting or in the case of internal lighting with not less than seventy-five percent (75%) of the sign face opaque or non-transparent
- (7) Building Lighting. Bright lighting of a roof or building for advertising purposes and "outline lighting" of buildings, roofs or windows shall be prohibited. Illumination of non-residential buildings and roofs shall be at the discretion of the Planning Commission after reviewing the location and proximity to public streets and adjacent residential areas.
- (8) Design of External Light Source. External light sources shall be screened from public view or designed as an integral component of the overall sign design.
- (9) Electronic Message Centers. EMCs shall adhere to the following standards:
  - A. EMCs shall be prohibited in residential districts.
  - B. EMCs are restricted to monument and wall signs only, and shall make up no more than thirty (30%) percent of such total, allowable sign area, and shall not be the predominant element of any sign.
  - C. No more than one (1) EMC sign is allowed per property.
  - D. EMC signs shall be equipped with automatic dimming software or solar sensors to control brightness for nighttime viewing and variations in ambient light. Manufacturer's verification is required.
  - E. EMC sign regulations shall apply to all EMC signs located inside a building and visible from a public sidewalk or public roadway.
- (i) Temporary Signs. A temporary sign is a sign which is intended to be displayed for a limited time only. At no time shall a sign be placed within the public right-of-way. "Temporary" for the purposes of this Chapter is considered to be thirty (30) days unless more specifically regulated. Temporary signs shall be regulated as follows for the district in which they are allowed:
  - (1) Construction Projects. May not exceed fifty (50) square feet in area and ten (10) feet in height in nonresidential areas, and six (6) square feet in area and four (4) feet in height in residential areas, shall be permitted on the lot upon which a building is under construction. A temporary home improvement sign shall not exceed six (6) square feet in area and four (4) feet in height.
  - (2) Garage Sales. May not be more than four (4) square feet and shall be permitted to be displayed on the property of the residence where a garage sale is being conducted.
  - (3) Political Events. Temporary signs in support of or in opposition to political candidates or issues shall not exceed fifteen (15) square feet, nor shall such a sign extend more than four (4) feet above grade level. Political signs may also be placed within windows and must conform to the requirements for temporary window signs as well. The responsibility for removing any such sign after a political voting season or event shall be on the property owner, candidate or on the organization supporting or opposing the issue, as the case may be.
  - (4) Real Estate Signs. May not exceed six (6) square feet in area, advertising the premises on which it is maintained as being for sale or lease. Such a sign shall not extend more than thirty-six (36) inches above grade level.
  - (5) Open Houses. "Open house" directional arrows placed in public rights-of way must be removed daily by sundown; may not exceed six (6) square feet in area nor extend more than thirty-six (36) inches above grade level.
  - (6) Temporary Promotional Signs. Temporary promotional signs intended to promote or advertise special events or sales may be permitted if they are displayed only for the duration of the special event or sale. The Designated Building Official, at his or her discretion, and if the signs are in neat and clean condition, may allow, upon request, an extension of the posting of such signs. If temporary promotional signs are posted in windows, they must conform to the requirements for temporary window signs.
  - (7) Temporary Window Signs. Temporary window signs may not exceed fifteen (15%) percent of the area of the window in which they are displayed and must be attached to the inside of the window. In no case shall the cumulative total for window signs in a building unit exceed twenty-four (24) square feet. The Designated Building Official shall have the discretion to determine compliance with the intent of this section and the power to remove those signs in conflict with the provisions of this section.
- (j) Signage by Zoning District. The following is a description of the allowable signage for all adopted Zoning Districts within the Village:
  - (1) Parkland and Public Facilities Districts.
    - A. Nameplate. Sign not exceeding two (2) square feet in area bearing the address and name of the occupant of any permitted building.
    - B. Identification Sign. A public facilities or park use may have one identification sign per street frontage. Such sign may be a wall sign or freestanding monument identification sign. Such sign shall not exceed twelve (12) square feet in area and, if illuminated, must have the light source shielded from highways and adjoining properties.
    - C. Bulletin Board. An announcement sign or bulletin board for the use of the municipal use lawfully occupying the premises. Such sign shall not exceed sixteen (16) square feet in area nor five (5) feet in height. A bulletin board sign may be integrated with a freestanding monument identification sign, but such combined sign shall not exceed six (6) feet in height.
    - D. Directional Signs. Two (2) directional signs each not exceeding two (2) square feet in area shall be permitted on any building or lot, but not less than five (5) feet from any lot or street right-of-way line.
    - E. Instructional Signs. Instructional signs which are clearly intended for instructional purposes and, as determined by the Designated Building Official, are not larger than two (2) square feet to serve the intended instructional purpose nor are in locations or possess design characteristics which constitute or serve the purposes of an identification sign.
  - (2) Residential and Mixed-Density Residential Districts.
    - A. Individual Dwellings. Single family and two-family homes are permitted:
      1. Nameplate. Sign not exceeding two (2) square feet in area bearing the house number and name of the occupant of any permitted dwelling. A physician, surgeon or dentist, etc., using a part of his or her home as a professional office, may include an identification of his profession on this sign. No window display or other sign may be used.
      2. Memorial sign. Sign not exceeding one (1) square foot in area.
    - B. Residential Development Monument Sign. A residential identification monument sign, indicating the name of the subdivision or



residential development, if part of the overall architectural treatment of the entrance of the development, shall be permitted for each entrance to a development.

- C. Height and area. Each sign shall be no more than four (4) feet in height and twenty-four (24) square feet in area.
- D. Location. Such signs shall be placed on corner parcels at openings to a development at the intersection of a development with an arterial street (on private property with an easement), on blocks owned by the Homeowner's Association or Village, or on a cluster parcel, no closer than ten (10) feet to the right-of-way and five (5) feet from a side lot line, except such signs may be placed in the right-of-way provided such signs shall be located on a divided entranceway island, placed no closer than fifteen (15) feet to the intersecting street's planned right-of-way line and set back five (5) feet from the curb of the divided island if an easement is granted by Village Council for such signs.
- E. Memorial sign. Sign not exceeding one (1) square foot in area.

(3) Mixed-Use District.

- A. Shared, monument style, directory signs are encouraged within mixed-use areas.
  - 1. Limited to one hundred and fifty (150) square feet in total area and fifteen (15) feet in overall height.
  - 2. Landscaping shall extend at least three (3) feet beyond the signs furthest point.
  - 3. Landscaping can include natural ground cover and plantings including flowers, small shrubs, rocks, mulch or woodchips, etc.
  - 4. Sign area landscaping shall be maintained in good condition at all times of the year.
- B. Hanging and projecting signs are encouraged.
- C. There is a limit to one (1) sign per business, which shall not exceed 10 square feet in size.
- D. Apartments. Accessory signs for apartments shall be designed, erected, altered, moved and maintained, in whole or in part, in accordance with these regulations. The types of signs permitted as to use, structure, size and number for each building or lot shall be regulated as follows:
  - 1. Awning signs. One (1) awning sign shall be permitted. The total area of one face of the sign shall not exceed six (6) square feet and the vertical dimension of the sign shall not exceed twelve (12) inches.
  - 2. Instructional signs. Instructional signs which are clearly intended for instructional purposes and, as determined by the Designated Building Official, are not larger than two (2) square feet to serve the intended instructional purpose nor are in locations or possess design characteristics which constitute or serve the purposes of an identification sign.
  - 3. Nameplate. One (1) nameplate, not exceeding one (1) square foot in area, is allowed per dwelling. No window display or other sign may be used. In addition to the dwelling unit nameplates, multi-family buildings may display a nameplate on the building which also identifies the management of the development. Such nameplate shall be a maximum of four (4) square feet.

(4) Commercial District.

- A. Maximum Area and Number Permitted:
  - 1. Maximum sign face area. The maximum sign face area of all permanent signs permitted for each separate use occupying a building or unit of a building shall be related to the frontage of the building or unit thereof, as determined by the following formula:
  - 2. Maximum sign face area =  $(W \times 1.5)$  square feet, except that the total in all cases shall not exceed one hundred and twenty (120) square feet.
  - 3. "Maximum sign face area" means the total area of one surface of a permanent sign.
  - 4. "W" means the frontage of a building (width).
- B. Awning signs. One (1) awning sign shall be permitted. The total area of one face of the sign shall not exceed six (6) square feet and the vertical dimension of the sign shall not exceed twelve (12) inches.
- C. Canopy signs. A sign attached to the underside of the canopy at a ninety (90) degree angle to the street, intended for pedestrian visibility. The total area of one face of the sign does not exceed five (5) square feet, the vertical dimension of the sign does not exceed twelve (12) inches, and the lowest structural member is not less than eight (8) feet above the sidewalk grade.
- D. Directional signs. Two (2) directional signs each not exceeding two (2) square feet in area shall be permitted on any building or lot, but not less than five (5) feet from any lot or street right-of-way line.
- E. Informational signs. One (1) informational monument sign not exceeding six (6) square feet in sign face area may be permitted on any lot, but not less than five (5) feet from any lot or street right-of-way line.
- F. Monument signs. One (1) monument sign not to exceed forty (40) square feet in area and the top of the sign shall not exceed ten (10) feet in height above the sidewalk grade. Only one (1) monument sign shall be permitted per lot. Multi-tenant buildings on a single lot shall be permitted only one (1) monument sign and must share signage space on such a sign.
- G. Nameplates. One (1) nameplate, not exceeding two (2) square feet in area for each store or office unit in the building, but not exceeding a total of eight (8) nameplates per building, shall be permitted.
- H. Memorial sign. Sign not exceeding one (1) square foot in area.
- I. Projecting signs. May be permitted in cases where innovative design is demonstrated and where no potential safety hazard to motorists or pedestrians is created, subject to review and approval by the Planning Commission.
- J. Wall or panel signs. Shall not project more than twelve (12) inches from the building wall to which it is attached and shall be set back from the end of the building and party wall lines a distance of at least eighteen (18) inches, shall not project beyond any corner or above the coping or eaves of any building, and shall not cover any windows or interrupt major architectural features.
- K. Supplementary Area and Location Standards:
  - 1. Side and rear entrances. In cases where the office or business building has an entrance from the side street of a corner lot or has a back entrance from a parking lot open to the public, additional sign area equal to twenty-five percent (25%) of that permitted on the front of the building may be used over such entrance.
  - 2. One (1) sign per building face. Notwithstanding the provisions of this section, each business shall be permitted a maximum of one sign on any single building face for the building, or the portion of the building in which the business is located; provided that this limitation shall not apply to directional signs, nameplates or real estate signs, or to a second noncommercial sign which shall not exceed five (5) square feet.
- L. Special Conditions for Automotive Service Stations:
  - 1. Canopy signs. Up to thirty (30) square feet of lettering or logos on up to two (2) sides of an approved freestanding canopy may be permitted by the Planning Commission.
  - 2. Pump island signs. Retail outlets having fuel pump islands shall have, for pricing and service information only, not more than one (1) double-faced sign or two (2) single faced signs per pump-island. Such sign shall not be greater than twenty-two (22) inches by twenty-eight (28) inches, shall be confined and permanently attached to the pump islands,

and may be illuminated. No permit or fee shall be required, and sign area not counted in maximum sign area for the site.

3. Freeway oriented automotive service stations. An automotive service station is considered freeway oriented if it is located within two hundred (200) feet of the freeway right-of-way and has frontage on a road which is directly accessible by a freeway off-ramp. One (1) pole sign, oriented to and visible from the freeway travel lanes is permitted, as determined by the following:
4. Location. One (1) pole sign for each automotive service station site to be located so as not to encroach upon the public right-of-way and further located so as to not obstruct neighboring signs subject to the following criteria:
  - a. The neighboring sign is located within one hundred and fifty (150) feet of either side of the proposed sign.
  - b. The proposed sign visually obstructs in excess of fifty (50%) percent of any neighboring sign when viewed from the street traffic lane closest to the curb.
5. Size and Height. No sign shall exceed an area of one-hundred and sixty (160) square feet for each sign face with a maximum area of three-hundred and twenty (320) feet and having a height of no greater than thirty (30) feet above ground level or no greater than twenty-five (25) feet above freeway grade level, whichever is greater, but in no event, shall the total height of the sign structure exceed fifty (50) feet above the service station site measured at the location of the sign on the property. The supporting structure shall be designed to be architecturally compatible with the service station building.

(5) Light-Industrial District.

- A. Standards for Monument Signs. Only one (1) monument sign shall be permitted per lot. Multi-tenant buildings on a single lot shall be permitted only one monument sign and must share signage space on the monument sign. The maximum sign face area of a monument sign permitted for each lot shall be related to the frontage of the building, as determined by the following formula:
    1. Maximum sign face area =  $W \times 2.5$  square feet, except that the total in all cases shall not exceed one hundred and seventy-five (175) square feet.
    2. "Maximum sign face area" means the total area of one surface of a permanent sign.
    3. "W" means the frontage of a building (width).
  - B. Standards for Permanent Signs Other Than Monument. The maximum area of permanent signs other than monument signs shall be determined by the following formula:
    1. Maximum area of signs =  $W \times 2.5$  square feet, except that the total in all cases shall not exceed one-hundred and seventy-five (175) square feet.
    2. "Maximum sign face area" means the total area of one surface of a permanent sign.
    3. "W" means the frontage of a building (width).
  - C. Awning Signs. One (1) awning sign shall be permitted. The total area of one face of the sign shall not exceed six (6) square feet and the vertical dimension of the sign shall not exceed twelve (12) inches.
  - D. Directional Signs. Two (2) directional signs each not exceeding two (2) square feet in area shall be permitted on any building or lot, but not less than five (5) feet from any lot or street right-of-way line.
  - E. Informational Signs. One (1) informational monument sign not exceeding six (6) square feet in sign face area may be permitted on any lot, but not less than five (5) feet from any lot or street right-of-way line.
  - F. Nameplates. One (1) nameplate, not exceeding two (2) square feet in area for each store or office unit in the building, but not exceeding a total of eight (8) nameplates per building, shall be permitted.
  - G. Projecting Signs. May be permitted in cases where innovative design is demonstrated and where no potential safety hazard to motorists or pedestrians is created, subject to review and approval by the Planning Commission.
  - H. Wall or Panel Signs. Shall not project more than twelve (12) inches from the building wall to which it is attached and shall be set back from the end of the building and party wall lines a distance of at least eighteen (18) inches, shall not project beyond any corner or above the coping or eaves of any building, and shall not cover any windows or interrupt major architectural features.
- (k) Permit Applications. An application for a permit to erect, place, paint, illuminate or alter a sign shall be made by the tenant, owner or such owner's agent of the property for which a sign is proposed. The application shall be submitted on forms furnished by the Building Department and shall be made either separately or with the application for a building permit. All drawings shall be drawn to scale.
- (1) When Required. In all use districts, a sign permit shall be required for all new or structurally altered signs, with the exception of nameplates, temporary window signs, and temporary signs with an area of six (6) square feet or less.
  - (2) Submission Requirements. Each application shall be accompanied by eight (8) sets of drawings to scale and photographs illustrating the following:
    - A. The design and layout proposed, including the total area of signs and the size, height, character, materials, colors, and types of lettering or other symbols.
    - B. Photographs or drawings of the building for which the signs are proposed and photographs of surrounding buildings, signs, and uses
    - C. The number and types of lamps and lens material to be used in any illuminated signs.
    - D. The exact location of the sign in relation to the building and property.
    - E. Details and specifications for construction, erection and attachment as may be required by the Building Code.
  - (3) Applicability of Permit. A sign permit is applicable only to the specific sign for which it is granted. Once a sign permit is granted, no temporary or permanent signs shall be attached or added to the given sign.
  - (4) Review. All signs shall be approved (or disapproved) by the Planning Commission. However, the Designated Building Official is authorized to review and approve (or disapprove) in accordance with this Chapter temporary signs located outside of a building with an area over six (6) square feet and temporary promotional signs for community programs and activities over six (6) square feet that do not involve signs in the public right-of-way.
  - (5) Changes to Existing Signs. The repainting of existing signs the same color, size and message shall be considered maintenance and no permit shall be required. However, any proposed change beyond this type of repainting shall be approved according to the review procedure set forth in this Code prior to any changes being made.
  - (6) Fees. Concurrent with the filing of an application for any sign, unless specified otherwise in these sign regulations, an application fee shall be paid to the Village in the amount established by ordinance. No refund of any part of an application fee shall be made to an applicant in cases of withdrawal of the application or of denial of the requested sign(s).
- (l) Materials.
- (1) Signs shall be fabricated on and of materials which are of good quality, good durability and complementary to the building of which they become part.

- (2) Allowable Stress. All materials used in structural elements of outdoor signs or display structures, and the allowable stresses for such materials, shall be in conformity with the applicable provisions of this chapter. The allowable stresses in chains, cables and guy rods and their fastenings shall not exceed one-fourth their ultimate strength.
- (3) Noncombustible Signs. When noncombustible outdoor signs or display structures are required by this chapter, all parts, including the supporting structure, shall be of noncombustible materials; provided, however, that wood, approved plastic or other material not more combustible than wood or approved plastic shall be permitted in the following locations:
- A. For small ornamental moldings, caps, nailing strips, individual letters, symbols, figures and insignia.
- B. On the face of a sign, provided that the aggregate area of such facing for any sign shall not exceed one hundred (100) square feet or for a group of signs shall not exceed two hundred (200) square feet.
- C. For posts, braces and laticing on monument signs whose total height is not more than twenty (20) feet above grade level and when specifically approved by the Building Official.
- (4) Combustible Signs. No material more flammable or combustible than wood or approved plastic shall be used in any permitted combustible sign. No combustible sign shall be illuminated by other than the reflector method of electric lighting and all parts of reflectors shall be of noncombustible material.
- (5) Tests for Approved Combustible Plastics. Approved combustible plastic is any plastic material more than 0.050-inch-thick which, when tested for flammability in sheets 0.060-inch-thick in accordance with ASTM D 635, does not burn at a rate exceeding two and one-half inches per minute.
- (6) Use of Approved Combustible Plastics. Approved combustible plastics shall not be used in positions where they shall be subject to temperatures in excess of one hundred and forty (140) degrees Fahrenheit unless they have been approved for higher temperatures by the Board of Building Standards.
- (7) Glass in Projecting Signs. Glass in projecting signs shall be used only to such extent and in such manner that no hazard shall be created thereby, and then only if specifically approved by the Designated Building Official.
- (8) Attachment of Projecting Signs:
- A. Materials. All anchorage, chains, cables or rods supporting, or bracing projecting signs shall be of a noncorrosive material or protected in a manner acceptable to the Designated Building Official. The dead load and the loads due to wind pressure shall be supported by structural shapes, chains, cables, or guy rods. Lateral supports shall be spaced not more than eight (8) feet apart. Turnbuckles or other approved means of adjustment shall be placed in all chains, cables or rods supporting or bracing projecting signs.
- B. Method. Complete information regarding the proposed method of support and attachment of projecting signs shall be submitted with the application for the permit. No staples or nails shall be used to secure any projecting sign to any building or other structure. No part of a projecting sign shall be supported from an unbraced parapet wall.
- (m) Maintenance and Removal. All signs shall be maintained in accordance with the following standards:
- (1) Responsibility. The property owner, owner of the sign, tenant, and agent are required to maintain the sign in a condition fit for the intended use and in good repair, and such person or persons have a continuing obligation to comply with all Building Code requirements.
- (2) Condition. A sign in good repair shall be free of peeling or faded paint, shall not show uneven soiling or rust streaks; shall not have chipped, cracked, broken or bent letters, panels or framing; shall not otherwise show deterioration; and shall comply with all other applicable maintenance standards of the Village.
- (3) Authority to Require Routine Maintenance. The Designated Building Official may order any sign to be painted or refurbished at least once a year, if needed, to keep the sign in a safe and non-blighted condition.
- (4) Determination as Unsafe Structure. If the sign is deemed by the Designated Building Official to be not in good repair or in an unsafe condition, such sign shall be considered an unsafe structure and all Village regulations applicable for the repair or removal of such sign shall apply.
- (5) Permit Not Required. Whenever any sign, either conforming or nonconforming to these regulations, is required to be removed for the purpose of repair, re-lettering, or repainting, the same may be done without a permit, or any payment of fees, provided there is no alteration or enlargement to the structure, mounting, color, or illumination of the sign itself, and the sign is accessory to a legally permitted or nonconforming use.
- (6) Removal. Whenever the removal or maintenance of any sign has been ordered by the Designated Building Official, the person, firm or corporation who erected such sign or on whose premises such sign or display structure has been erected, affixed or attached shall remove or maintain such sign within seventy-two (72) hours after receiving such notice. In the event of noncompliance, the person, firm or corporation who erected such sign or on whose premises it was erected, affixed or attached shall be individually and separately liable for the expense incurred in the removal of such signs.
- (n) Nonconforming Signs.
- (1) A sign which is nonconforming on the effective date of this chapter which does not conform to the regulations of this or a subsequent amendment, shall be deemed a nonconformity.
- (2) The purpose of this section, in addition to providing specific standards for the design, construction and erection of every new graphic, sign, marquee, canopy and awning is to cause every graphic or other sign in violation of any provision of this chapter to be removed, altered or replaced so as to conform to the provisions of this chapter.
- (3) Authority to Continue Existing Nonconformities. Any permanent graphic, sign, marquee, canopy or awning, other than a temporary sign, which is deemed to be a nonconformity, which was erected pursuant to a Village permit and in place on the effective date of this chapter, and which remains or becomes a nonconformity upon the adoption of this chapter or any subsequent amendment thereto, may be continued only in accordance with the following regulations:
- A. Repairs. Ordinary repairs and nonstructural alterations may be made to a nonconforming sign. No structural alterations shall be made in, to or upon such nonconforming sign, except those required by law to make the sign conform to the regulations of this chapter.
- B. Additions and enlargements. A nonconforming sign shall not be added to or enlarged in any manner, except to make the sign conform to the regulations of this chapter.
- C. Moving. No nonconforming sign shall be moved in whole or in part to any other location unless such sign, and the use thereof, is made to conform to all regulations of this chapter.
- D. Restoration of damaged nonconforming signs. A nonconforming sign which is destroyed or damaged by fire or other cause to the extent that the cost of restoration will exceed fifty percent (50%) of the original cost of such sign, shall not be restored unless it is made to conform to all the regulations of this chapter, or any subsequent amendment thereto. In the event that such damage or destruction is less than fifty percent (50%) of the original cost of such sign, no repairs or construction shall be made unless such restoration is started within six (6) months from the date of the partial destruction and is

diligently pursued to completion.

- E. Discontinuance of use of nonconforming signs. A nonconforming sign, the use of which is discontinued for a period of thirty (30) days, shall thereafter conform to the regulations of this Chapter.
  - F. Change of use of nonconforming signs. Where the business, use or identity associated with the nonconforming sign at the time of the adoption of this chapter, thereafter terminates or changes, such termination or change of use shall require termination of the nonconforming sign, and the use of such sign shall thereafter conform to the regulations of this section.
  - G. Conformance date. All graphics, signs, marquees, canopies and awnings rendered nonconforming by the provisions of this chapter and permitted to continue shall be removed, altered or remodeled to conform to the provisions of this section.
  - H. When a structure and/or use is nonconforming and the signage restrictions for the district in which it is located would cause hardship, the regulations of the district most compatible with the current and/or proposed use shall be used.
- (4) Any sign, graphic or numeral display embossed, etched, engraved or otherwise an integral part of the original building's masonry architecture which was in existence prior to the effective date of this Code may be continued provided such sign, graphic or numeral display is maintained as originally designed and intended.
- (o) Violations, Penalties and Severability.
- (1) Responsibility. It shall be the duty of the sign owner, sign erector, the owner of the business being identified or advertised and/or the owner of the property upon which the sign is to be placed to see that any sign erected, altered, modified or maintained is in compliance with all applicable provisions of these sign regulations and any other conditions specified in the approval of a sign. Failure to come into compliance after notice as specified in this section shall be a violation.
  - (2) Correction of Violations. The Designated Building Official shall declare any violation a nuisance and order in writing the correction of all conditions which are found to be in violation of these regulations.
    - A. Where the sign regulations provide that a permit or approval of the Designated Building Official or Planning Commission is required prior to the erection of the sign, and no permit or approval has been obtained, violations shall be corrected within seven (7) days after the written order is issued or the sign in question may be removed by the Village at landowner's cost.
    - B. Any violation involving temporary signs hereof shall be corrected within five (5) days after the written order is issued or the sign in question may be removed by the Village. If the permit holder, sign owner, property owner or sign provider fails to remove or alter the temporary sign within seven (7) days after such notice, a such sign or other advertising structure may be removed or altered by the Village to comply with these regulations at the expense of the owner of the property upon which it is located. The Designated Building Official may cause any sign or advertising structure which is in immediate peril to persons or property or which has been erected for a use which is not permitted by this Code on the premises, to be removed summarily and without notice.
    - C. In the case of a sign that poses an immediate danger to the public health or safety, such a sign shall be removed immediately upon notification of such pending danger or the sign in question shall be removed by the Village at the expense of the property owner.
    - D. All other violations shall be corrected within thirty (30) days after the written order is issued or the sign in question may be removed by the Village at the expense of the property owner.
    - E. Failure to pay the cost for sign removal hereof, shall result in a lien upon the premises, which lien shall be filed with the County Recorder's office to remain a lien of record, until paid. The lien shall accrue interest at the maximum rate permitted by Ohio law prior to payment. The Designated Building Official may refuse to issue a permit to any property owner who refuses to pay costs so assessed.
  - (3) Penalty for Not Correcting Violation:
    - A. Non-residential signs. Any violation not corrected within the period of time specified in subsection (o)(2) hereof, shall be a misdemeanor and the sign owner shall be fined not more than five hundred dollars (\$500.00) and subject to imprisonment for up to thirty (30) days or both, for each day and every day the violation continued to exist after the period of time to remove it, specified in subsection (o)(2) above, has expired. A separate offense shall be deemed committed for each day such violation continues.
    - B. Residential signs. Any violation not corrected within the period of time specified in subsection (o)(2) hereof for signs regulated in subsection (j)(2), Residential and Mixed-Density Residential Districts, shall be a minor misdemeanor and the sign owner shall be fined not more than one hundred dollars (\$100.00).
  - (4) Severability. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.
- (p) Appeal Procedure. Upon denial of a sign plan application by the Designated Building Official or Planning Commission, the applicant may appeal to the Board of Zoning Appeals. Such appeal shall be to request a variance from the strict application of the provisions of this Chapter. A variance may be granted upon the affirmative vote of those members present of the Board of Zoning Appeals finding that strict compliance with the provisions of this Chapter may impose an undue hardship and that the granting of the variance from the provisions of this Chapter will not depreciate or damage neighboring property, will not create a safety hazard and will not be contrary to the purposes of this Chapter. (Ord. 2017-49. Passed 12-5-17.)

#### **1137.05 RECREATION VEHICLES.**

- (a) Definitions. As used in this chapter:
- (1) "Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.
  - (2) "Pick-up camper" means a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.
  - (3) "Motorized home" means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
  - (4) "Folding tent trailer" means a canvas folding structure, mounted on wheels and designed for travel and vacation use.
  - (5) "Boats" and "boat trailers" means and includes boats, floats and rafts, plus the normal equipment to transport the same on the highway.
- (b) Storage. No person shall park or store recreational equipment on any street or highway or public or private property within the Village except as hereinafter provided. Any owner of recreational equipment may park or store such equipment not in excess of twenty-seven (27) feet in overall length on property owned by him/her in accordance with the following conditions:
- (1) Recreational equipment parked or stored shall not have fixed connections to electricity, water, gas or sanitary sewer facilities and at no time shall such equipment be used for living or housekeeping purposes.
  - (2) If the camping and recreational equipment is parked or stored outside of a garage, it shall be parked or stored to the rear of the rear building line of the lot. Where there is a single garage on the lot and the equipment is not stored or parked in the garage, the

equipment must then be stored in the rearmost portion of the lot and may not obstruct the garage entrance. Where there is a double garage on the lot and the recreational equipment is not stored or parked in the garage, the equipment must then be stored in the rearmost portion of the lot or in such a position so as not to obstruct the entrance to the garage nearest an abutting property line. In any event, the setback requirement in the side or rear yard shall be a minimum of three (3) feet.

- (3) Notwithstanding the provisions of subsection (2) hereof, camping and recreational equipment may be parked anywhere on the premises for loading or unloading purposes for a period of not more than forty-eight (48) hours.
- (4) All recreational equipment must be kept in good repair and carry a current license and/or registration.

(c) Permissions and Penalties.

- (1) No nonconforming use will be permitted in residential areas unless approved by the Building Department only after submission of written request stating the nature and reasons for such nonconforming usage.
- (2) Whoever violates any provision of this Chapter shall be guilty of a misdemeanor of the fourth degree. Each day such violation exists shall constitute a separate offense.

(Ord. 2017-49. Passed 12-5-17.)

**1137.06 OFF-STREET PARKING STANDARDS.**

(a) General. The provisions of this chapter are established to achieve, among others, the following:

- (1) To relieve congestion so that streets can be utilized more fully for movements of vehicular traffic by requiring minimum levels of off-street parking.
- (2) To promote the general convenience, welfare, and prosperity of commercial developments which depend upon off-street parking facilities.
- (3) To provide regulations and standards for accessory off-street parking and loading facilities in accordance with the development objectives of the Village.

(b) Required Number of Spaces.

- (1) At the time of construction of any main building or structure or when the same is enlarged or increased in a capacity of adding dwelling units, floor area or seats, or when the use of the same is enlarged or increased in capacity, there shall be provided in accordance with the following schedule, parking spaces located off the streets and in conformity with the requirements of this Code with adequate driveway provisions for ingress thereto and egress therefrom, and such off-street parking spaces shall thereafter be maintained so long as the use of the main building or structure remains, unless an equivalent number of such off-street parking spaces is provided in another permitted location.
- (2) Parking is not required within Mixed-Use districts, but is highly encouraged.
- (3) For a building, structure or use not scheduled above the Building Commissioner shall apply and establish such unit of measurement from the foregoing schedule as applies to the scheduled building, structure or use found by him to be most similar to such unscheduled building, structure or use.
- (4) See Newburgh Heights Schedule of Parking Spaces below.

| <b>NEWBURGH HEIGHTS SCHEDULE OF PARKING SPACES</b>                      |   |
|---|---|
| <b>Building or Use</b>  | <b>Minimum Off-street Parking Spaces Required</b>   |
| <b>Residential</b>  |   |
| One-family residence  | 1 enclosed space for existing residential structures and 2 enclosed spaces per dwelling unit for new construction |
| Two-family residence  | 1 enclosed space per dwelling unit for existing structures and new construction                                   |
| Multi-family residence  | 1 space per dwelling unit   |
| <b>Institutional/Municipal</b>  |   |
| Day care  | 1 space per 400 sqft  |
| Places of worship   | 1 space per 4 seats in an auditorium or sanctuary   |
| School buildings  | 1 space per each full-time employee plus 1 space for each 4 seats in the auditorium                               |
| Public buildings  | 1 space for each full-time employee plus 1 space for each 4 seats in the assembly room or auditorium              |
| <b>Entertainment &amp; Assembly</b>                                     |   |
| Theaters, arenas and auditoriums  | 1 space per 4 seats   |
| Dance halls, skating rinks, swimming pools, lodge halls, assembly rooms | 1 space per 75 sqft of area used for dancing, skating, swimming or assembly room                                  |
| Bowling alleys  | 4 spaces per alley  |

|  |   |
|--|---|
| <b>Commercial/Retail</b>                 |   |
| Retail stores and service establishments | 1 space per 200 sqft  |
| Drug stores                              | 1 space per 200 sqft plus 5 stacking spaces for drive-thru window   |
| Banks and financial institutions         | 1 space per 200 sqft & 6 stacking spaces for the first drive-thru window plus 2 spaces for each additional window |
| Restaurants and taverns                  | 1 space per 75 sqft   |
| Offices (excluding medical and dental)   | 1 space per 200 sqft  |
| Medical and dental offices               | 1 space per 100 sqft  |

|   |  |
|---|--|
| Gas station mini-marts  | 1 space per employee, plus a minimum of 5 spaces   |
| Gas station with car wash   | 1 space per employee, plus 5 stacking spaces for car wash  |
| <b>Building or Use</b>  | <b>Minimum Off-street Parking Spaces Required</b>  |
| Auto repair establishments  | 1 space per employee and 3 spaces per bay  |
| Auto sales establishments   | 1 space per 200 sqft building  |
| Mixed-use (office/retail/commercial, Harvard Avenue)  | 1 space per employee, plus 1space per 200 sqft.  |
| <b>Industrial</b>   |  |
| Manufacturing plants, commercial, industrial and general service establishments, laboratories, machine shops and similar establishments | 1 space per employee or 1 space per 650 sqft whichever is greater plus a minimum of 5 visitor spaces   |
| Warehouses  | 1 space per employee or 1 space per 1000 sqft whichever is greater, plus a minimum of 5 visitor spaces |

(c) Measurement Standards. The calculation of the number of parking spaces shall be based upon the following standards:

- (1) Where floor area is the determinant of required parking spaces, floor area shall be the gross sum of the horizontal area of all the floors measured from the exterior faces of the building. Any floor or part thereof used for the storage or packaging of merchandise (excluding warehouses), not exceeding twenty-five percent (25%) of the total floor area, may be excluded. For restaurants and taverns, kitchen space may be excluded from the calculations.
- (2) Where seating capacity is the determinant of required parking spaces, the capacity shall mean the number of seating units installed or indicated in the application.
- (3) Where employees are the determinant of required parking spaces, employees shall mean the maximum number of employees and/or owners on any two (2) successive shifts.
- (4) Fractional numbers shall be increased to the next whole number.
- (5) The parking requirements for mixed uses shall be the sum of the parking requirements for each use.

(d) Accessory Use Exemptions. Notwithstanding the accessory use provisions of this Code, where sufficient area is not available on a lot for providing required off-street parking spaces therefor, then such off- street parking spaces may be located within four hundred (400) feet of the main building, structure or use of such lot on other lots; provided, however, that the portions of such other lots so to be used shall be owned or leased by the applicant and satisfactory assurance of his right to continued use of such premises for such use shall be furnished to support his application for a building permit.

(e) Joint Parking Usage and Parking Areas.

- (1) Two (2) or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that a written agreement approved by the Building Commissioner, shall be filed with the application for a building permit. Where such spaces are provided collectively, or used jointly, by two (2) or more establishments, the required spaces may be located not farther than four hundred (400) feet from the building served. Should any of the uses be changed or the facilities discontinued, then the required spaces for the use or uses remaining shall be provided elsewhere as a condition precedent to the continued use of such building.
- (2) The portion of the lot occupied by required off-street parking spaces shall not by conveyance or encumbrance be detached from such lot during the continuance of the main building, structure or use thereon.

(f) Driveway Width and Location.

- (1) Driveway Width. Driveways providing access to off-street parking spaces, including, but not limited for driveways for residential lots, shall have a width of not less than ten (10) feet and not more than twelve (12) feet if such driveway constitutes a one-way access to the off-street parking spaces; of not less than eighteen (18) feet and not more than twenty-four (24) feet if it is a two-way access driveway.
- (2) Driveway Location. Driveways shall be located and arranged to minimize traffic congestion, therefore:
  - A. Only one (1) such driveway shall be permitted for each one hundred (100) feet of frontage of the lot providing such parking spaces.
  - B. No driveway shall be so located that there would be less than fifteen (15) feet between the driveway apron and the outside crosswalk line at the intersection when the driveway is on the approach side of the intersection.
  - C. No driveway shall be so located that there would be less than five (5) feet between the driveway apron and the outside crosswalk line at the intersection when the driveway is on the leaving side of the intersection.
  - D. No driveway shall be so located that there would be less than fifty (50) feet between the driveway apron and the closest point of intersection between a freeway ramp and street pavement.

(g) Driveway and Parking Construction.

- (1) All off-street parking spaces, parking lots and driveways, including, but not limited to residential lots, shall be surfaced with either concrete or asphalt. All off-street parking spaces, parking lots and driveways shall comply with applicable storm water management regulations. The grade, contour and drainage facilities shall be designed to prevent the drainage of surface water onto neighboring properties, into or toward buildings or onto sidewalks. Appropriate curbs or bumper guards shall be provided around the exterior and interior perimeter of the parking area so as to define or limit the parking facility. The location of each parking space shall be indicated by paint on the surface of the parking area.
- (2) The plan for parking spaces of a parking area included with an application to construct a building or parking area, or for a change in use, shall be designed and dimensioned in accordance with this section.

(h) Parking Area Illumination. Except for residential uses, illumination of off-street parking spaces shall be installed. However, the design and location of such illumination shall be such that residential uses and public rights-of-way shall be shielded from any light source, and provided further, however, that such illumination shall not be of such brightness as to constitute a safety hazard to users or occupants of such parking spaces

or adjacent premises.

(i) Commercial Loading Areas.

- (1) Location. All buildings and structures hereafter constructed for or converted to use, in whole or in part, for business, commercial or manufacturing purposes shall be provided with adequate off-street loading or unloading platforms or space located not less than fifty (50) feet from the front street line. Any such platforms or space located besides a building, structure or street shall be so located that a motor vehicle while loading or unloading will not interfere with the pedestrian or vehicular traffic upon any access way, parking facility, street or alley.
- (2) Minimum Size. A required off-street loading space shall be at least twelve (12) feet in width and of such length as to accommodate a truck commonly used in conducting the main use. Each loading facility shall have a vertical clearance of fourteen (14) feet in height.
- (3) Required Spaces. Accessory off-street loading spaces shall be provided as required in this subsection for the following uses:

| Gross Floor Area of Building (sqft)        | Required Spaces |
|--|-----------------|
| 0 - 5,000                                  | 0*              |
| 5,001 - 40,000                             | 1               |
| 40,001 - 100,000                           | 2               |
| Each additional 50,000 or fraction thereof | 1               |

\* Buildings required to provide no loading spaces shall provide other facilities approved by the Building Commissioner which facilitate loading.

- (4) A drive-through lane (or queuing lane) shall be a separate lane from the circulation lanes and aisles necessary for entering and exiting the property. Drive-through lanes shall be 10 feet wide and distinctly marked by special striping to ensure that access to parking spaces or exits is not adversely affected.

(j) ADA Compliance Required. Construction and alterations of new parking areas and access to and from parking areas for commercial, office, institutional and public uses shall conform to the standards of the American with Disabilities Act.  
(Ord. 2017-49. Passed 12-5-17.)

**1137.07 SOLAR PANELS.**

(a) Solar Panels. The installation and construction of a solar energy system is subject to the following development and design standards.

- (1) A solar energy system may be building-mounted or ground-mounted.
- (2) Solar panels must be placed so that concentrated solar radiation or glare is not directed onto nearby properties or roadways.
- (3) All power transmission lines from a ground-mounted solar energy system to any structure must be located underground.
- (4) Advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials, is prohibited. The manufacturer and equipment information, warning signs or ownership information is allowed on any equipment of the solar energy system.
- (5) A solar energy system connected to the utility grid shall provide written authorization from the local utility company acknowledging and approving such connection.

(b) Building-Mounted Systems. A building-mounted system may be mounted on a principal building or accessory building in the following locations.

- (1) When mounted on a roof:
  - A. On a flat roof, solar panels are permitted when set back eight (8) feet from the front façade of the building unless otherwise approved by the Planning Commission.
  - B. For other roof forms, solar panels are permitted on the rear and side roof but must be set back six (6) feet behind the ridge line unless otherwise approved by the Planning Commission.
  - C. Solar panels on the front or corner side roof are permitted with approval from the Planning Commission, provided that the grant or denial of such approval is within the discretion of the Planning Commission, upon consideration of the impact upon neighbors, the extent to which such solar panel installation is consistent with the features of the zoning district and neighborhood in which the subject property is located, and aesthetic considerations.
- (2) When mounted on a façade:
  - A. Solar panels are permitted on side and rear building facades.
  - B. Solar panels on the front or corner side building facades are permitted with the approval of the Planning Commission, which may grant or deny such approval in the Planning Commission's discretion, upon consideration of the impact upon neighbors, the extent to which such solar panel installation is consistent with the features of the zoning district and neighborhood in which the subject property is located, and aesthetic considerations.
- (3) The solar panel system is limited to the maximum building heights of the zoning district for the building type (principal or accessory structure) or a maximum height of five (5) feet, whichever is less. Height is measured from the roof surface, on which the system is mounted, to the highest edge of the system.
- (4) Solar energy systems may project off a building as follows:
  - A. May project up to four (4) feet from a façade
  - B. May project into a side or rear setback, but shall be no closer than five (5) feet to the side or rear property line.
- (5) In the case of a flat roof, solar panels must be set back six (6) feet from any building wall.

(c) Ground-Mounted Systems.

- (1) A ground-mounted system is permitted only in the rear yard and must be set back a minimum of five (5) feet from any lot line.
- (2) A ground mounted system is considered to be an accessory building for purposes of this zoning code, subject to the regulations set forth in subsection (c)(3) below. A ground-mounted system shall not exceed the maximum building heights for accessory buildings.
- (3) Single-family residential lots shall be permitted the larger of either one hundred square feet of panels or one (1) square foot of solar panels for every one hundred (100) square feet of lot.
- (4) All ground-mounted systems are subject to Planning Commission approval, which may grant or deny such approval in the Planning Commission's discretion, upon consideration of the impact upon neighbors, the extent to which such solar panel installation is consistent with the features of the zoning district and neighborhood in which the subject property is located, and aesthetic considerations.

(d) Solar Access Protection. For purposes of ensuring adequate access of solar energy collection devices to sunlight, any person may grant a solar access easement in accordance with Ohio Revised Code Section 5301.63 (Solar access easement requirements). Such easements must be in writing and subject the same conveyance and recording requirements as other easements. Any instrument that grants a solar access easement must include all requirements required by Ohio law.

(e) National Fire Protection Association Compliance. Any solar panel or solar panel system shall be installed in compliance with National Fire Protection Association ("NFPA") 70, as set forth in Ohio Administrative Code Section 1301:7-7-80, as the same may be amended from time to time, including, but not limited to, NFPA Article 690 and Section 690.12, as the same may be amended from time to time, and with any applicable Ohio

Fire Code section, as the same may be amended from time to time. Compliance with NFPA 70 and /or the Ohio Fire Code shall be determined by the Village Fire Chief, in the Fire Chief's sole, reasonable discretion.

(f) Roof Access Dimensions for Firefighting. The following roof access dimensions shall be required in connection with any roof-mounted solar panels.

- (1) On residential buildings with hip roof layouts, panels shall be located in a manner that provides one (1) three-foot (3') wide clear access pathway from the eave to the ridge on each roof slope where panels are located.
- (2) The access pathway shall be located at a structurally strong location on the building (such as a bearing wall.)
- (3) On residential buildings with a single ridge, panels shall be located in a manner that provides two (2) three-foot (3') wide access pathways from the eave to the ridge on each roof slope where panels are located.
- (4) Panels shall be located no closer than one and one-half (1.5) feet to a hip or a valley if panels are to be placed on both sides of the hip or valley. If the panels are to be located on only one side of a hip or valley that is of equal length, then the panels may be placed directly adjacent to the hip or valley.
- (5) Panels shall be located no higher than three feet (3') below the ridge.
- (6) Notwithstanding any other provision of this ordinance, plan review is required if a system is to be installed that will occupy more than fifty percent (50%) of the roof area of a residential dwelling.

(g) Report of Engineer. The Building Department shall not issue a permit for any solar panel or solar panel project without a stamped opinion of a registered/licensed engineer indicating that the load-bearing elements of the building or structure in question can structurally support the weight of the panels. (Ord. 2020-11. Passed 6-2-20.)

#### **CODIFIED ORDINANCES OF NEWBURGH HEIGHTS**