

ARTICLE TEN - Zoning Administration

- Section 1001 Zoning Permit Required
- Section 1002 Amendments
- Section 1003 Zoning Board of Appeals
- Section 1004 Conditional Uses
- Section 1005 Non-Conforming Uses.
- Section 1006 Site Plan Review
- Section 1007 Penalties for Violation

SECTION 1001 Zoning Permit Required

- 1001.01 Zoning Permits Required
- 1001.02 Contents of Application
- 1001.03 Approval of Zoning Permit
- 1001.04 Submission to State Highway Director
- 1001.05 Expiration of Zoning Permit
- 1001.06 Zoning Certificate of Occupancy
- 1001.07 Temporary Zoning Permit of Occupancy
- 1001.08 Record of Zoning Certificates of Occupancy
- 1001.09 Failure to Obtain Zoning Permit or Zoning Certificate of Occupancy
- 1001.10 Construction and Use to be as Provided in Applications, Plans, Permits and Certificates
- 1001.11 Complaints Regarding Violations
- 1001.12 Schedule of Fees, Charges, and Expenses
- 1001.13 General

1001.01 ZONING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefore, issued by the Responsible Authority that does not conform with the provisions of this ordinance unless he receives a written order from the Zoning Board of Appeals deciding an appeal or permitting a conditional use or variance, as provided by this Ordinance.

1001.02 CONTENTS OF APPLICATION FOR ZONING PERMIT

The written application for a zoning permit shall be signed by the owner or applicant attesting to tell the truth and exactness of all information supplied on the application. Each application shall

clearly state that the permit shall expire and shall be revoked if work has not begun within one year or been substantially completed within two and one-half (2½) years from the date of issuance. At a minimum, the application shall contain the following information:

1. Name, address, and phone number of applicant.
2. Legal description of property.
3. Existing use.
4. Proposed use.
5. Zoning district.
6. Plans in triplicate drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building (s) or alterations.
7. Building heights.
8. Number of off-street parking spaces or loading berths.
9. Number of dwelling units.
10. Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

1001.03 APPROVAL OF ZONING PERMIT

Within thirty (30) days after the receipt of an application, the Responsible Authority shall either approve or disapprove the application in conformance with the provisions of this ordinance. 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 Responsible Authority, after having 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 Responsible Authority. The Responsible Authority shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this ordinance.

1001.04 SUBMISSION TO STATE HIGHWAY DIRECTOR

Before any zoning permit is issued affecting any land within three hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to local officials by the State Highway Director or any land within a

radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Responsible Authority shall give notice, by registered or certified mail to the Highway Director. The Responsible Authority shall not issue a zoning permit for one hundred twenty (120) days from the date the notice is received by the Highway Director. If the Highway Director notifies the Responsible Authority that he shall proceed to acquire the land needed, then the Responsible

Authority shall refuse to issue the zoning permit. If the Highway Director notifies the Responsible Authority that acquisition at this time is not in the public interest or upon the expiration of the one hundred twenty (120) day period of any extension thereof agreed upon by the Highway Director and the property owner, the Responsible Authority shall, if the application is in conformance with all provisions of this ordinance, issue the zoning permit.

1001.05 EXPIRATION OF ZONING PERMIT

If the work described in any zoning permit has not begun within one year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Responsible Authority; 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 (2½) years of the date of issuance thereof, said permit shall expire and be revoked by the Responsible Authority, 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 extension granted.

1001.06 ZONING CERTIFICATE OF OCCUPANCY

- A. No person shall occupy or use any building or structure unless a zoning Certificate of Occupancy has been issued, nor shall any person occupy or use any building or structure for which a zoning certificate has been denied or revoked.
- B. Whenever any building or structure has been vacated, abandoned or otherwise left by any occupant or user, no other person shall occupy or use such building or structure unless a Zoning Certificate of Re-Occupancy has been issued under the name, terms and conditions as required for an original zoning certificate.
- C. Any person who occupies or uses, or allows or permits anyone to occupy or use a building or who causes such building to be occupied or used either as a tenant or land contract purchaser or grantee without first obtaining a Zoning Certificate of Occupancy, or Re-Occupancy, shall be in violation of the provisions of this Ordinance.

1001.07 TEMPORARY ZONING CERTIFICATE OF OCCUPANCY

A temporary zoning certificate of occupancy may be issued by the Responsible Authority for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion.

1001.08 RECORD OF ZONING CERTIFICATES OF OCCUPANCY

The Responsible Authority shall maintain a record of all zoning certificates of occupancy and a copy shall be furnished upon request to any person.

1001.09 FAILURE TO OBTAIN A ZONING PERMIT OR ZONING CERTIFICATE OF OCCUPANCY

Failure to obtain a zoning permit or certificate of occupancy shall be a violation of this ordinance and punishable under Article X, Section 1007 "Penalties for Violation" of this ordinance.

1001.10 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES

Zoning permits or zoning certificates of occupancy issued on the basis of plans and applications approved by the Responsible Authority authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, or arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance, and punishable as provided in "Penalties for Violation" of this ordinance.

1001.11 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Responsible Authority. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

1001.12 SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, zoning certificates of occupancy, appeals, and all other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Responsible Authority, and may be altered or amended only through the Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

1001.13 GENERAL

Whenever the public necessity, convenience, general welfare, or good zoning practices require, Council may by ordinance after receipt of recommendation thereon from the Planning Commission and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

1002.01

Section 1002 Amendments

- 1002.01 Initiation of Zoning Amendments.
- 1002.02 Contents of Application.
- 1002.03 Transmittal to Planning Commission 1002.04
- Submission to State Highway Director

1002.05	Public Hearing by Planning Commission
1002.6	Public Notice
1002.7	Notice to Property Owners
1002.8	Planning Commission Recommendations
1002.9	Public Hearing by Council
1002.10	Public Notice
1002.11	Notice to Property Owners
1002.12	Action by Village
1002.13	Effective Date

1002.1 INITIATION OF ZONING AMENDMENTS

Amendments to this ordinance may be initiated in one of the following ways:

- A. By adoption of a motion by the Planning Commission.
- B. By adoption of a resolution by Council.
- C. 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.

1002.2 CONTENTS OF APPLICATION

The application for amendment shall contain at least the following information:

- A. Name, address, and phone number of applicant.
- B. Proposed amendment to the text or legal description.
- C. Present use.
- D. Present zoning district.
- E. Proposed use.
- F. Proposed zoning district.

6

1002.02

- G. A vicinity map at a scale approved by the Responsible Authority showing property lines, streets, existing and proposed zoning and such other items as the Responsible Authority may require.
- H. A list of all property owners within, contiguous to, and directly across the street from the parcel (s) proposed to be rezoned and others that may have a substantial interest in the case.

- I. A statement on how the proposed amendment relates to the comprehensive plan.
- J. A fee as established by Council.

1002.03 TRANSMITTAL TO PLANNING COMMISSION

Immediately after the adoption of a resolution by the 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 Commission.

1002.4 SUBMISSION TO STATE HIGHWAY DIRECTOR

Before any zoning amendment is approved affecting any land within three hundred (300) feet of the centerline of a proposed new highway or highway for which changes are proposed as described in the certification to local officials by the State Highway Director, or within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Commission shall give notice, by registered or certified mail to the Highway Director. The Commission may proceed as required by law, however, the Council shall not approve the amendment for one hundred twenty (120) days from the date the notice is received by the Highway Director. If the Highway Director notifies the Municipality that he shall proceed to acquire the land needed, then the Municipality that acquisition at this time is not in the public interest or upon the expiration of the one hundred twenty (120) day period or any extension thereof agreed upon by the Highway Director and the property owner, the Council shall proceed as required by law.

1002.5 PUBLIC HEARING BY PLANNING COMMISSION

The Planning Commission may schedule a public hearing after the adoption of a motion, transmittal of a resolution from Council, or the filing of an application for zoning amendment. Said hearing shall be not less than twenty (20) days from the date of the receipt of such motion, transmittal of such resolution, or the filing of such application.

1002.6 NOTICE OF PUBLIC HEARING IN NEWSPAPER

Before holding the public hearing notice of such hearing shall be given by the Planning Commission by at least one (1) publication in one or more newspapers of general circulation of the Village at least fifteen (15) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the proposed amendment, and a **1002.06**
7

statement that after the conclusion of such public hearing the matter will be referred to the Council for further determination.

1002.7 NOTICE TO PROPERTY OWNERS BY PLANNING COMMISSION

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing may be mailed by the Planning

Commission, by first class mail, at least twenty (20) days before the date of the hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Village Council. The notice shall contain the same information as required of notices published in newspapers as specified in this Article.

After an application for a zoning amendment has been found to be complete, the applicant shall place a sign on the subject property, indicating the pending consideration of the zoning amendment. Such a sign shall be of such size, format and content as specified by the responsible authority and shall be visible on the subject property for the duration of consideration of the proposed amendment.

1002.8 RECOMMENDATIONS BY PLANNING COMMISSION

Within fifteen (15) days after the public hearing, the Planning Commission shall recommend to Council that the amendment be granted as requested, or it may recommend a modification of the amendment requested or it may recommend that the amendment be not granted. The Planning Commission shall transmit its recommendation to the Council.

1002.9 PUBLIC HEARING BY COUNCIL

Upon receipt of the recommendation from the Planning Commission, Council shall schedule a public hearing. Said hearing shall be not more than forty (40) days from the receipt of the recommendation from the Planning Commission.

1002.10 NOTICE OF PUBLIC HEARING IN NEWSPAPER

Notice of the public hearing shall be given by Council by at least one (1) publication in one (1) or more newspapers of general circulation in the Municipality affected. Said notice shall be published at least thirty (30) days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

1002.11 NOTICE TO PROPERTY OWNERS BY COUNCIL

If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least twenty (20) days before the day of the public hearing to all owners of

property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing 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 time and place of the public hearing and the nature of the amendment.

After an application for a zoning amendment has been found to be complete, the applicant shall place a sign on the subject property, indicating the pending consideration of the zoning amendment. Such a sign shall be of such size, format and content as specified by the responsible authority and shall be visible on the subject property for the duration of consideration of the proposed amendment.

1002.12 ACTION BY COUNCIL

Within thirty (30) days after the public hearing, the Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event the Council denies or modifies the recommendation of the Planning Commission, it must do so by not less than three fourths of the full membership of Council. 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 Council vote to dispense with this rule.

1002.13 EFFECTIVE DATE AND REFERENDUM

- A. Such amendment adopted by Council shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the passage of the ordinance there is presented to the Municipal Clerk a petition, signed by a number of qualified voters residing in the Municipality equal to not less than ten (10) percent of the total vote cast such area at the last preceding general election at which a Governor was elected, requesting the Council to submit the zoning ordinance to the electors of the Municipality for approval or rejection at the next general election.
- B. No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the board of elections that the amendment has been approved by the voters, it shall take immediate effect.

SECTION 1003 Zoning Board of Appeals

1003.01	Purpose
1003.02	Organization and Procedure
1003.03	Governing Guidelines
1003.04	Jurisdiction and Powers
1003.05	Procedure and Requirements for Appeals and Variances
1003.6	Appeals
1003.7	Schedule of Fees, Charges and Expenses
1003.8	Stay of Proceedings
1003.09	Variances
1003.10	Application and Standards for Variances
1003.11	Guidelines for Granting Variances
1003.12	Conditions Imposed by the Board
1003.13	Lapses of Variances
1003.14	Public Hearing by the Zoning Board of Appeals
1003.15	Notice of Public Hearing in Newspaper
1003.16	Notice to Parties in Interest
1003.17	Decisions of the Board

1003.01 Purpose

The purpose of the Zoning Board of Appeals shall be to decide any issue involving the interpretation of the provisions contained in this Code, to grant variances from the strict letter of the Code in instances of unnecessary hardship and to authorize conditional uses as herein provided.

1003.02 ORGANIZATION AND PROCEDURE A.

Appointment:

1. The Board shall be composed of five (5) members, all of whom are residents of the Municipality. Members shall be appointed by the Mayor for a period of five (5) years. The terms shall be so arranged so that the term of one member shall expire each year. Should any vacancy on the Board occur for any reason, the Mayor shall appoint a successor to serve the unexpired term. The Mayor shall have the right to remove any members of the Board with due cause.

B. Organization and Rules:

1. The Board shall organize annually and elect a chairman, vice chairman and secretary from its membership. The secretary need not be a member of the

Board. The Board shall adopt rules as may be necessary to carry into effect the

provisions of this Code and to exercise the powers and jurisdiction conferred upon it by the Code.

2. The chairman shall preside at all meetings of the Board. He shall decide on all points of order and procedure unless otherwise directed by a majority of the Board. The chairman may appoint committees deemed necessary to carry out the business of the Board. The chairman may administer oaths and compel the attendance of witnesses. The chairman's signature shall be the official signature of the Board and shall appear on all decisions as directed by the Board.

3. The vice chairman shall serve in the absence of the chairman. He shall have all the powers of the chairman during his absence, disability or disqualification.

4. The secretary shall keep minutes of all meetings and shall be responsible for all official correspondence of the Board.

5. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. All meetings shall be open to the public.

C. Voting:

1. All actions of the Board shall be taken by resolution, the vote of each member being recorded. The majority of the Board shall constitute a quorum to do business and the concurring vote of three (3) members shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator.

2. No member of the Board shall vote on any matter in which he is personally or financially interested. D. Minutes and Records:

1. The secretary of the Board shall keep minutes of its proceedings, showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other official action, all of which shall be certified correct and filed in the Municipal Hall and shall be a public record. E. Witnesses and Oaths:

1. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers and other evidence pertinent to any issue before the Board.

1103.02

11

F. Department Assistance:

1. The Board may call on the Municipal departments for assistance in the performance of its duties, and it shall be the duty of such departments to render assistance to the Board as may be required. In addition, the Planning Commission may make an analysis and present a report on any matter before the Board. Such report shall be considered by the Board at the time of hearing on the matter.

1003.03 GOVERNING GUIDELINES

- A. The Board shall be governed by the provisions of all applicable state statutes, local laws, ordinances and rules set forth herein.
- B. The Board shall become familiar with all enacted ordinances and laws of the Municipality of LaGrange under which it may be expected to act as well as with applicable state enabling legislation.
- C. The Board shall uphold the Zoning Ordinance and Official Zoning Map of LaGrange as adopted and shall serve primarily as a judicial review in the performance of its duties.
- D. The Board shall become familiar with the community goals, desires and policies as expressed in an adopted Comprehensive Plan and the proposals set forth therein. All decisions shall be guided by such Plan and relief only granted which will insure that the goals and policies of the Plan will be preserved, substantial justice is done and the public interest is protected. Through the performance of its duties, the Board may not act as a legislative body; or through interpretation, the granting of variances of the setting of conditions, alter the basic intent of the Zoning Ordinance to be generally and equally applicable to all persons covered by a zoning district.

1003.04 JURISDICTION AND POWERS

The Board shall operate so as to carry into effect the powers and jurisdiction conferred upon it as follows:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.
- B. To hear and decide on such conditional uses as the Board is specifically authorized to pass on by the terms of this Code.

- C. To hear and decide upon application for variances under the terms provided in this Code.

D. To interpret the provisions of the Zoning Ordinance or Map where there is doubt as to meaning or application. The Board shall have the specific power to:

1. Interpret the precise location of the boundary lines between zoning districts.
 2. Interpret the classification of a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the intent and purpose of each district.
- E. To exercise such other powers as may be granted to the Board by this Code, amendment thereto or by the general laws as set forth in the Ohio Revised Code as amended.
 - F. The Board shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this Code, but does have power to act on those matters where the Code provides for judicial review, interpretation, variance or conditional use as defined in this Article.

1003.05 PROCEDURE AND REQUIREMENTS FOR APPEALS AND VARIANCES

Appeals and variances shall conform to the procedures and requirements of this ordinance.

1003.06 APPEALS

Appeals to the Zoning Board of Appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the Municipality affected by any decision of the Responsible Authority. Such appeal shall be taken within twenty (20) days after the decision by filing with the Responsible Authority and with the Zoning Board of Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Responsible Authority shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

1003.07 SCHEDULE OF FEES, CHARGES, AND EXPENSES

- A. The Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, zoning certificates of occupancy, appeals, and all other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Responsible Authority, and may be altered or amended only through the Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

1003.8 STAY OF PROCEEDINGS

A. An appeal stays all proceedings in furtherance of the action appealed from, unless the Responsible Authority from whom the appeal is taken certifies to the Zoning Board of 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 Zoning Board of Appeals or by a

court of record on application, with a notice to the Responsible Authority from whom the appeal is taken.

1003.09 VARIANCES

The Zoning Board of Appeals may authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

1003.10 APPLICATION AND STANDARDS FOR VARIANCES

A variance from the terms of this ordinance shall not be granted by the Zoning Board of Appeals unless and until a written application for a variance is submitted to the Responsible Authority and the Zoning Board of Appeals containing:

- A. Name, address, and phone number of applicants.
- B. Legal description of property.
- C. Description of nature of variance requested.
- D. A narrative statement demonstrating that the requested variance conforms to the following standards:
 - 1. That special conditions and circumstances 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.
 - 2. 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.

3. That special conditions and circumstances do not result from the actions of the applicant.
4. 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.

1003.11 GUIDELINES FOR GRANTING VARIANCES

- A. Variances may be granted by the Board where the strict application of any provision of this Zoning Ordinance would result in peculiar and exceptional difficulties or undue hardship to the property owner. A request for a variance may be made to the Zoning Board of Appeals through the Building Inspector (Zoning Administrator) by an aggrieved property owner.
- B. A variance from the provisions or requirements of this Code shall not be authorized by the Board unless it finds that all the following facts and conditions exist:
- C. That unnecessary hardships would result from the literal enforcement of the provisions of this Zoning Ordinance. Alleged hardships, such as theoretical loss or limited possibilities of economic advantage, shall not be considered real hardships. A hardship based on conditions created by the owner shall not be considered a sufficient hardship for the granting of a variance. It must be demonstrated that peculiar and special hardships exist which apply only to the property in question and are separate and distinct from the general conditions pertaining throughout the district.
- D. That there are unique physical circumstances or conditions applying to the property in question such as irregularity, narrowness or shallowness of lot size or shape, exceptional topographical or other physical conditions.
- E. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Zoning Ordinance and that authorization of a variance is, therefore, necessary to enable the reasonable use of the property.
- F. That said variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity and that the granting of such variance will not be injurious to persons working or residing in the neighborhood.
- G. That the granting of such variance will not be contrary to the public interest (health, safety) or the intent and purpose of this Code and other adopted plans.

- H. That said variance will not permit the establishment within a district of any use other than those permitted by right within that district, or any use for which a conditional permit is required.
- I. That said variance may not be construed to mean a change of use but shall mean only a variation or modification from the strict provisions of this Code.
- J. That said variance, if granted, is the minimum modification that will make possible the reasonable use of the land, building or structure.
- K. That in no instance shall a variance be considered for the following reasons:
 - 1. Presence of nonconformities in the zoning district.
 - 2. Previous variances granted in the zoning district.
 - 3. Uses in adjoining zoning districts.
 - 4. The applicant's belief that the intended use would be permitted upon his purchase of the land.
 - 5. The character standing of the applicant.
 - 6. Hardship being demonstrated beyond the context of zoning, e.g. economics.
 - 7. Variations to Nonconforming Uses and Buildings:
 - 8. The Board shall have no powers to authorize, as a variance, the establishment of a nonconforming building or use, extensions of or changes in nonconforming uses where none previously existed.
 - 9. The substitution of a nonconforming use existing at the time of enactment of this Zoning Ordinance for another nonconforming use shall be allowed provided no structural alterations are made except those required by law or ordinance.
 - 10. The Board shall adhere to all regulations contained in Article I, Section 103.07 of this Ordinance in acting upon all nonconforming uses and modifications thereto.

1003.12 CONDITIONS IMPOSED BY THE BOARD

The Board shall have the power to impose additional conditions and safeguards other than those stated in the Zoning Ordinance when granting variances and conditional uses. Such

16 1003.12

additional conditions shall be reasonable and necessary to promote and preserve the public safety, general welfare and economic viability of the neighborhood and community and shall be imposed solely for the purpose of minimizing the effect of the variance of conditional use on surrounding property and the community as a whole. Violations of such conditions and safeguards, when made a part of the terms under which the variance or conditional use is granted, shall be deemed a violation of this Ordinance and punishable under Article VIII of this Code.

1003.13 LAPSES OF VARIANCES

A variance, once granted, shall not be withdrawn or changed unless there is a change of circumstances, or if, after the expiration of six months, no construction has taken place in accordance with the terms and conditions for which said variance was granted. Expiration shall occur without notice and thereafter the variance shall be deemed null and void and all regulations governing said premises in question shall revert to those in effect before the variance was granted.

1003.14 PUBLIC HEARING BY THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall hold a public hearing within twenty (20) days after the receipt of an application for an appeal or variance from the Responsible Authority or an applicant.

1003.15 NOTICE OF PUBLIC HEARING IN NEWSPAPER

Before holding the public hearing, notice of such hearing shall be given in one or more newspapers of general circulation of the Municipality at least ten (10) 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 proposed appeal or variance.

1003.16 NOTICE TO PARTIES IN INTEREST

Before holding the public hearing, notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers as specified in this Article.

After an application for a zoning amendment has been found to be complete, a sign shall be placed on the subject property, indicating the pending consideration of the zoning amendment. Such a sign shall be of such size, format and content as specified by the responsible authority

and shall be visible on the subject property for the duration of consideration of the proposed amendment.

1003.17 DECISIONS OF THE BOARD

- A. The Board shall decide all applications for variances, conditional uses and appeals within thirty (30) days after the final hearing thereon.
- B. The applicant shall be notified in writing of the Board's decision and the findings of fact which were the basis for the Board's determination.
- C. The Board may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination of the Zoning Administrator as in its opinion ought to be made in the premises. The decision shall state any conditions and safeguards necessary to protect the public interest.
- D. In reading a decision, the Board shall be guided by standards specified in this Code as well as by the community goals and policies specified in a comprehensive plan and any recommendations made by the Planning Commission.
- E. A certified copy of the Board's decision including all terms and conditions shall be transmitted to the Zoning Administrator and shall be binding upon and observed by him. The Zoning Administrator shall fully incorporate these same terms and conditions in the permit to the applicant whenever a permit is authorized by the Board.
- F. All findings and decisions shall be clearly set forth in the minutes of the Board.
- G. In rendering a decision, the Board should show that:
 - 1. It has considered and evaluated all available information and evidence.
 - 2. It has heard all parties in question.
 - 3. Any personal knowledge the Board may have of the subject under question has been taken into account.
 - 4. The Board has received a report on the case based upon an inspection of the parcel in question.

SECTION 1004 Conditional Uses

1004.01	Procedure and Requirements for Conditional Uses
1004.02	Contents of Application for Conditional Use
1004.03	General Standards Applicable
1004.04	Supplementary Conditions and Safeguards
1004.05	Planning Commission Review & Comment
1004.06	Public Hearing by the Zoning Board of Appeals (ZBA)
1004.07	Notice of Public Hearing in the Newspaper
1004.08	Notice to parties of Interest
1004.09	Expiration of Conditional Use Permit
1004.10	Decision of the ZBA
1004.11	Duties of the Responsible Authority, ZBA, Council and Courts on Matters of Appeal
1004.12	Appeal to Courts

1004.01 PROCEDURE AND REQUIREMENTS FOR APPROVAL OF CONDITIONAL USES

It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation, and public facilities that each specific use must be considered individually. These specific uses as they are conditionally permitted within each zoning district, shall follow the procedures and requirements set forth in this Article.

1004.02 CONTENTS OF APPLICATION FOR CONDITIONAL USE PERMIT

An application for conditional use permit shall be filed with the Chairman of the Zoning Board of Appeals and the Chairman of the Planning Commission by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

- A. Name, address and phone number of applicant.
 - B. Legal description of property.
 - C. Description of existing use.
 - D. Present zoning district.
 - E. Description of proposed conditional use.
 - E. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open
-

information as the Board and Planning Commission may require to determine if the proposed conditional use meets the intent and requirement of this ordinance.

G. A narrative statement evaluating the economic effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan. H. Such other information as may be required.

1004.03 GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES

In addition to the specific requirements for conditionally permitted uses, the Board and Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- A. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Municipality's comprehensive plan and/or the zoning ordinance.
- B. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- C. Will not be hazardous or disturbing to existing or future neighboring uses.
- D. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- E. 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.
- F. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
- G. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.

H. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

20

1004.04

1004.04 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

In granting any conditional use, the Board and Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this ordinance and punishable per Article Ten Section 1007.

1004.05 PLANNING COMMISSION REVIEW AND COMMENT

The Planning Commission shall study each application for a conditional use permit and make a recommendation within thirty (30) days of receipt from the Zoning Board of Appeals.

1004.06 PUBLIC HEARING BY THE ZONING BOARD OF APPEALS

The Board shall hold a public hearing within thirty (30) days from the receipt of the recommendation from Planning Commission for a conditional use.

1004.07 NOTICE OF PUBLIC HEARING IN NEWSPAPER

Before holding the public hearing, notice of such hearing shall be given in one (1) or more newspapers of general circulation of the Municipality at least ten (10) 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 proposed conditional use.

1004.8 NOTICE TO PARTIES IN INTEREST

Before holding the public hearing, written notice of such hearing shall be mailed by the Chairman of the Board, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers as specified in this Article.

After an application for a zoning amendment has been found to be complete, a sign shall be placed on the subject property, indicating the pending consideration of the zoning amendment. Such a sign shall be of such size, format and content as specified by the responsible authority and shall be visible on the subject property for the duration of consideration of the proposed amendment.

1004.09 EXPIRATION OF CONDITIONAL USE PERMIT

A conditional use permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire without notice if, for any reason, the conditional use shall cease for more than six (6) months.

1004.10 DECISIONS OF THE BOARD

- A. The Board shall decide all applications for conditional uses within thirty (30) days after the final hearing thereon.
- B. The applicant shall be notified in writing of the Board's decision and the findings of fact which were the basis for the Board's determination.

1004.11 DUTIES OF RESPONSIBLE AUTHORITY, ZONING BOARD OF APPEALS, COUNCIL AND COURTS ON MATTERS OF APPEAL

- A. It is the intent of this Code that all questions of interpretation and enforcement shall first be presented to the Responsible Authority, and that such questions shall be presented to the Board only on appeal from the decision of the Responsible Authority, and that recourse from the decision of the Board shall be to the courts as provided by Article X, Section 1004.12 of this Ordinance and Chapter 713 of the Ohio Revised Code.
- B. It is further the intent of this Code that the duties of the Council in connection with this Article shall not include hearing and deciding questions of interpretation and enforcement that may arise; these being the powers of the Board. Under this Article, Council shall have only the duties of considering, adopting or rejecting proposed amendments or the repeal of all or part of this Ordinance, as provided by law and of establishing a schedule of fees and charges.
- C. If, in the course of carrying out the intent of this Article and after review of all appeal cases brought before it, the Board finds a series of similar irregularities or inequities, it shall be incumbent upon the Board to inform the Council and Planning Commission of these inadequacies in order that the Zoning Ordinance or Map may be appropriately amended.

1004.12 APPEAL TO COURTS

A person aggrieved by a decision of the Board may appeal to the Court of Common Pleas of Lorain County, Ohio.

SECTION 1005 Non-Conforming Uses

1005.1 Procedure and Requirements for Non-Conforming Uses.

1005.01 NON-CONFORMITIES

A. Continuance:

1. The lawful use of a building or parcel of land existing at the time of the adoption of this Ordinance may be continued, although such use of a building or parcel of land does not conform to the provisions hereof, provided no structural alterations are made other than those ordered by an authorized public officer to assure the safety of the building or structure and provided further, that such extension does not displace any residence use in a residence district. B. Non-conforming Lots of Record:

2. Nothing in this section shall be construed to prohibit the installation or replacement of temporary recreational apparatus that are an accessory use to an existing non-conforming residential use.

3. Temporary recreational apparatus shall include, but not limited to:

- a. typical playground equipment such as swing sets, jungle gym, monkey bars, slides, sand boxes, trampolines, etc.
- b. above ground swimming pools, above ground spas, and above ground hot tubs which shall meet the requirements of Section 103.07
- c. decks, patios, gazebos, porches, trellises, etc. not having walls, roofs, or physical connection to any existing building.
- d. Other apparatus similar in nature as determined by the Planning Commission.

1. In any "R" District notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling may be erected on any single lot of record existing at the effective date of the adoption or amendment of this Ordinance, provided that yard requirements of the lot shall conform to the regulations for the district in which such lot is located. If the non-conforming lot does not meet applicable area, width and yard requirements, a variance may be obtained only through action of the Zoning Board of Appeals. C. Discontinuance:

1. If any nonconforming use of land is discontinued or abandoned for any reason for a period of two (2) years, said use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. Whenever
-

a nonconforming use of a building or portion thereof has been discontinued for a period of at least two (2) years, such nonconforming use shall not thereafter be reestablished and the future use shall be in conformity with the provisions of this Ordinance.

D. Destruction, Damage and Reconstruction:

1. Any nonconforming building or structure damaged by fire, explosion, act of God or act of the public enemy, may be reconstructed and used as before such calamity, provided such building or structure is not damaged to the extent of more than fifty percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance and all applicable building and safety codes.

2. Any owner occupied nonconforming residential dwelling that is damaged by fire, explosion, act of God or act of the public enemy, may be reconstructed and used as before such calamity regardless of the amount of damage provided that such reconstruction shall be completed within one (1) year of the date of any such calamity or destruction and provided that such reconstruction shall be in conformity with the provisions of this Ordinance and all other applicable building and safety codes.
3. Nothing in this section shall be construed to authorize the enlargement of any nonconforming building or structure or the enlargement of any nonconforming use existing at the time of any calamity or destruction.

E. Maintenance:

1. On any building or structure devoted in whole or in part to a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding ten (10) percent of the current replacement value of the building or structure, provided that the cubic content of such building or structure remains as it existed at the time of passage.

Section 1006 Site Plan Review Procedures

1006.01	Conditions for Review.
1006.02	Procedure for Site Plan Review.
1006.03	Access Control Requirements.
1006.04	Traffic Impact Study.
1006.05	Enforcement.

1006.1 CONDITIONS FOR REVIEW

Site plan review shall be required in any district where the construction, alteration, expansion of any principal or accessory building or use is proposed, or when six (6) or more parking spaces are being required for new or existing uses.

1006.2 PROCEDURE FOR SITE PLAN REVIEW

Formal submission and approval of a site plan is required before any zoning permit may be issued. Submission and approval of a site plan includes following the review procedures and submission requirements defined herein.

An applicant seeking site plan approval shall follow the preliminary and final review process for site plan review as defined in this Chapter. For developments also requiring conditional use approval, the procedure established in Chapter 1004 shall be followed. The Planning Commission may concurrently address the issue of site plan approval and consider a recommendation on a conditional use approval, and in such case, the approval of the site plan shall be contingent upon conditional use approval. If a variance is required, the applicant shall be required to seek a variance in accordance with Chapter 1003 before submitting plans for formal site plan approval in accordance with this Chapter.

A. Optional Concept Review

1. At any time prior to the formal submission and review of a site plan, an applicant may engage the Planning Commission in an optional concept review process. In order to receive this review, the applicant shall submit a sketch site plan to the Planning Commission. The applicant shall be required to submit the sketch plan at least twenty-one (21) days before the next scheduled monthly meeting in order to be placed on the agenda for review. The purpose of such a sketch site plan is to provide an opportunity to conceptually discuss a proposed development and to provide general guidance to assist in the preparation of a formal site plan. There are no applied standards to the site sketch plan, however, the applicant is encouraged to provide enough detail in order to be able to accurately

represent the concept. All comments and suggestions shall be considered informal by the applicant and shall not be a binding agreement with the

1006.02
25

Planning Commission for approval. This concept review is a service provided to benefit the applicant, and formal site plan approval is dependent upon the outcome of the Preliminary Plan Review and Final Site Plan Review described herein.

B. Preliminary Plan Review

1. The applicant shall be required to submit a plan for preliminary site plan review. In order for the application to be deemed complete, the application form, permit fees, and twelve (12) copies of the plan shall be submitted to the Responsible Authority at least twenty-one (21) days before the next regularly scheduled monthly meeting in order to be considered for placement on the agenda for review. If the applicant fails to provide a complete application as described herein, the Responsible Authority shall notify the applicant promptly of the missing items. An additional fee shall be required to defray the expenses associated with the municipal review of the plans, including the need to retain a registered professional engineer, architect, or landscape architect, or other professional consultant to advise the Municipality on any or all aspects of the site plan.

a) A site plan shall be prepared at a scale of one inch equals twenty feet (1 in. = 20 ft.) (developments more than five (5) acres may be drawn at a scale of one inch equals fifty feet [1 in. = 50 ft.]), on standard twenty-four inch by thirty-six inch (24 in. x 36 in.) sheets, with narrative on eight and one-half inch by eleven inch (8-1/2 in. x 11 in.) sheets as necessary. All site plans shall be prepared by a registered professional engineer, architect, or landscape architect. Minimum information to be provided in the site plan drawing includes:

- i. The location of the proposed development in relation to existing community facilities, thoroughfares, and other transportation modes, shopping centers, manufacturing establishments, residential development; and existing natural features such as vegetation, general soil conditions, and topography in the neighboring area.
- ii. Applicable zoning district/proposed zoning district.
- iii. Width and names of public rights-of-way that are adjacent to the site and/or will be used for access.
- iv. The layout and acreage of the site and

proposed location of all uses, along with parking areas, and planned access and traffic circulation on the site, and planned changes that will take place in any existing public right-of-way.

- v. The location of all existing and proposed buildings structures on and adjacent to the site.

- vi. The location of utilities, if available, and the location and size and capacity of the sewer and water lines that are proposed to serve the development.

- vii. The scale, title, a north arrow, and date of submission.

- viii. Name, address, phone number, and fax number of all applicants, developers, and their representatives.

- ix. Adjoining land uses and zoning.

- x. A rendered building elevation drawing shall be provided showing exterior finishes and colors.

2. Responsible Authority Review:

- a) The Responsible Authority shall review the application for compliance to all applicable Sections of this ordinance within fifteen (15) days of receipt of the application, based on the information provided in the application. If the Responsible Authority finds that the plan will not comply with this Zoning Ordinance, the Responsible Authority shall notify the applicant of the discrepancies of the site plan. If the applicant disagrees with the Responsible Authority's decision or chooses to seek a variance, he or she can appeal to the Zoning Board of Appeals for such relief, as described in Chapter 1003 as a separate process. Submission of the preliminary site plan to the Planning Commission shall not be permitted unless the Responsible Authority determines that the plans are in compliance with this ordinance or an appeal or variance has been granted from the Zoning Board of Appeals.

3. Planning Commission Review:

- a) The Responsible Authority shall forward the preliminary application to the Planning Commission for review and discussion, after determining that the application is complete and the applicant complies with this ordinance, based on the information required and provided at this stage of review. Within sixty (60) days of receipt of the preliminary application and plan

from the Responsible Authority, the Planning Commission shall meet and shall consider the proposed site plan according to the following criteria:

- i. The adequacy of the information presented to determine the impacts of the proposed site.
- ii. The impacts of the proposed development compared with the following standards:

- 1) Traffic: Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
- 2) Parking: Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
- 3) Services: Reasonable demands placed on municipal services and infrastructure.
- 4) Pollution Control: Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface water and groundwater. This includes controlling soil erosion both during and after construction.
- 5) Nuisances: Protection of abutting properties from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, storm water runoff, etc.
- 6) Existing Vegetation: Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
- 7) Amenities: The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside planting, and the retention of other green areas.
- 8) Community Character: The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape.

4. Final Action of the Preliminary Site Review shall consist of either:

- a) Approval to prepare the site plan for Final Plan Review, in accordance with all applicable regulations and developmental requirements imposed by this Zoning Ordinance.
- b) Approval to prepare the site plan for Final Plan Review, conditional to incorporation of all conditions as set forth by the Planning Commission, and all applicable regulations imposed by this Zoning Ordinance.

C. Final Site Plan Review Procedure:

1. The applicant shall prepare the final site plan in accordance with any conditions set by the Planning Commission in the Preliminary Review and all other applicable Sections of this Ordinance. All applicants are required to follow final site plan review procedures before receiving final approval of site plans, and approval for a zoning permit. All applicants shall be required to submit a completed application, a final site plan (12 sets), and an application fee to the responsible authority twenty-one (21) days before the next regularly scheduled meeting in order to be placed on the agenda for review. An additional fee shall be required to defray the expenses associated with the municipal review of the plans, including the need to retain a registered professional engineer, architect, or landscape architect, or other professional consultant to advise the Village on any or all aspects of the site plan.

a) Final Site Plan Content: Site plan shall include the following data, details, and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. A site plan shall be prepared at a scale of one inch equal twenty feet (1 in. = 20 ft.) (developments more than five (5) acres may be drawn at a scale of one inch equal fifty feet [1 in. = 50 ft.]) or as determined by the Village engineer, on standard twenty-four inch by thirty-six inch sheets (24 in. x 36 in.), with narrative on eight and one-half inch by eleven inch (8-1/2 in. x 11 in.) sheets as necessary. All site plans shall be prepared by a registered professional engineer, architect, or landscape architect. Items required for submission include:

- i. Name of the project, boundaries, and location maps showing the site's location in the Village, date, north arrow, and scale of the plan.
- ii. Name, address, phone number, and fax number of the owner of record, developer, engineer, architect, landscape architect, and seal of the engineer, architect, or landscape architect who prepared the site plan.

- iii. The legal description of the site that will be developed.
- iv. Existing or proposed deed restrictions or covenants associated with the development.
- v. Names and addresses of all owners of record of abutting parcels and those within three hundred feet (300 ft.) of the property lines.
- vi. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, and abutting land uses.

- vii. The location and use of all existing and proposed buildings and structures within the development including building footprints, overhangs, site coverage, building-ground contact, and area. A brief description of the use of the site shall be included with an estimate of the number of employees.
- viii. All dimensions of height and floor area, and showing all exterior entrances.
- ix. Illustrations of traffic movement, ingress and egress, and the location of all present and proposed public and private drives, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences.
- x. Illustrations of the proposed changes in any public right-of-way, and typical pavement sections and plans showing other improvements, including new streets and infrastructure to be constructed for the development which shall be dedicated to public use.
- xi. The location, height, intensity, lighting pattern, and bulb type (e.g., fluorescent, sodium, incandescent) of all external lighting fixtures.
- xii. The location, height, size, materials, and design of all proposed signage.
- xiii. The location of all present and proposed utility systems including, sewage or septic systems, water supply system, telephone, cable and electrical systems, and storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and

drainage swales, detention areas, and storm system design calculations.

- xiv. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the watertable, and flooding of other properties, as applicable.
- xv. Existing and proposed topography upon and within seventy-five feet (75 ft.) of the site at a one foot (1 ft.) contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one hundred-year (100-year) flood plain, the area will be shown, and base flood elevations given. If the area is not located within the one hundred-year (100-year) flood plain, this fact shall be noted on the plan.

xvi. A landscape plan showing all existing natural land features, trees, forest cover, and water resources, and all proposed changes to these features including size and type of plant material. Water resources will include ponds, lakes, streams, wetlands, floodplains, and drainage retention areas.

xvii. A plan for Erosion and Sedimentation Control during and after construction shall be included with all other plans upon application for a zoning permit for residential subdivisions and all commercial and industrial development. The following principles shall be followed in developing and carrying out the plan:

- 1) The smallest practical area of land should be exposed at any one time during development.
- 2) When land is exposed during development, the exposure should be kept to the shortest practical period of time.
- 3) Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.
- 4) Sediment basins (debris basins, desilting basins, or silt traps) shall be installed and maintained to remove sediment from run —off waters from land undergoing development.

- 5) Provisions shall be made to effectively accommodate the increased run—off caused by changed soil and surface conditions during and after development.
- 6) The permanent final vegetation and structures shall be installed as soon as practical in the development.
- 7) The development plan shall be fitted to the topography
- 8) Wherever feasible, natural vegetation should be retained and protected.

xviii. For new construction or alterations to any existing building, a table containing the following information must be included:

- 1) Area of building to be used for a particular use such as retail operation, office, storage, etc.
- 2) Maximum number of employees.
- 3) Maximum seating capacity, where applicable.

1006.02

31

- 4) Number of parking spaces existing and required for the intended use.
- 5) A Three complete sets of building drawings and plans as approved by the State of Ohio.
- 6) One set of scaled building elevation drawings shall be provided showing the exterior finishes and colors.

2. Review by the Responsible Authority

a) The Responsible Authority shall review the application for compliance to all applicable Sections of this ordinance, and all previous conditions imposed by the Planning Commission in the Preliminary Review, within fifteen (15) days of receipt of the application. Such review shall be based on the information provided by the applicant. If the Responsible Authority finds that the plan will not comply with this Zoning Ordinance or the applicant has not met all previous conditions as stated in the Preliminary Review, the Responsible Authority shall notify the applicant of the discrepancies of the site plan. Final Review of the site plan by the Planning Commission shall not be permitted unless the applicant complies with this ordinance and any prior conditions established as a result of the preliminary review.

- i. Notification of Adjoining Property owners. Within five (5) days following the determination that the application is complete, notices of the meeting to be held by the Planning Commission on the proposed development may be sent, by first class mail, to all adjoining property owners within three hundred feet (300 ft.) of the proposed development.
- ii. Within sixty (60) days of receipt of an accurate and complete final plan from the Responsible Authority, the Planning Commission shall take a final action. The final action shall consist of either:
 - 1) Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and the plan meets all standards set forth in this Zoning Ordinance and agreements during the preliminary review process.
 - 2) Approval of the site plan subject to any additional conditions, modifications, and restrictions as required to ensure that the project meets the standards for review.
- iii. If the site plan is approved subject to conditions, the Responsible Authority shall not issue a permit until the site plan has been redrawn

and resubmitted and checked for compliance with the imposed conditions.

1006.03 ACCESS CONTROL REQUIREMENTS.

General standards for parking areas, circulation, and access shall be incorporated as part of the site plan. These standards are found in Section 902 of this Ordinance. As part of the site plan review process, access shall be reviewed relative to the distance from other drive approaches and from roadway intersections. The preferred method of providing access to parcels is to minimize or eliminate driveways by using service roads, rear access roads, or shared driveways. The Planning Commission may, as part of the site plan review process, require that driveways be moved, combined, re-aligned, or eliminated to reduce the potential for accidents.

A. Conditional Approval of Driveways.

1. As part of the site plan review process, the Planning Commission may approve a site plan with a specific driveway location, with the condition that an agreement be first entered into between the property owner and the Municipality of LaGrange requiring that if a service road is constructed in the future, or if the opportunity for a shared driveway should present itself with development of adjacent property, one (1) or more approved driveways shall be closed and measurements taken to utilize

such service road or shared drive. Approval of driveways may also include restrictions on turning movements, locations, or other requirements to ensure safe and efficient traffic movement.

B. Construction and Use of Service Roads.

1. When a service road is required, such improvement shall be constructed by the developer of the involved property before any zoning occupancy or zoning use permit is granted. When a service road is provided, all access to an adjacent property shall use that service road and no direct access to the main thoroughfare shall be provided.

1006.4 TRAFFIC IMPACT STUDY

A traffic impact study shall be a requirement for site plan review if the expected trip generation of the use is one hundred (100) or more cars per hour as identified in the Institute of Traffic Engineers (ITE) Manual. A traffic impact study shall be prepared by a qualified professional engineer at the developer's expense. The traffic impact study shall investigate the feasibility and benefits of improvements such as signals, turn lanes, driveway movement limitations, and other relevant information to the site to protect the safety of the traveling public. The traffic impact study shall include the following elements:

- A. A description of the site and study area.
- B. Anticipated development of adjacent parcels.

1006.04
33

- C. Trip generation and distribution, including a description of all assumptions used to generate findings of trip distribution.
- D. Modal split (if applicable).
- E. Traffic assignment resulting from the development.
- F. Projected future traffic volumes.
- G. An assessment of the impact that would result from driveway alternatives.
- H. Recommendations for site access and transportation improvements needed to maintain traffic flow within and past the site at an acceptable and safe level of service.
- I. An evaluation of the effects the proposed development will have on the level of service and roadway capacity.

1006.5 ENFORCEMENT

The Village of LaGrange may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. It may suspend any zoning permit when work is not performed as required. Site plan approval issued under this Section shall lapse within one (1) year if a substantial use thereof has not commenced, except for good cause.

SECTION 1007
Penalties for Violation

1007.01	Penalties for Violation
1007.02	Civil Action
1007.03	Remedies Cumulative

1007.01 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in various articles of this ordinance) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof, be fined not more than \$100 or imprisoned for not more than thirty (30) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues after receipt of a violation notice, shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Municipality from taking such other lawful action as is necessary to prevent or remedy any violations.

1007.02 CIVIL ACTION

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of law or of this Ordinance or any amendment thereto, the Council, the Municipal Law Director, the Responsible Authority or any adjacent or neighboring property owner who would be especially damaged by such violation may in addition to other appropriate action, enter proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

1007.03 REMEDIES CUMULATIVE

The exercise of the rights and remedies granted in this Article and the above paragraphs shall in no way preclude or limit the Municipality or any person from exercising any other right or remedy now or hereafter granted to them under the laws of Ohio.
