

**VILLAGE OF BATAVIA,
OHIO**

OFFICIAL ZONING CODE

Effective

2024

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CHAPTER 1130: GENERAL PROVISIONS

1130.01 TITLE

This zoning code shall be known and may be cited as the “Official Zoning Code of the Village of Batavia, Ohio”, or referred to as the “Code” or the “Ordinance”.

1130.02 PURPOSE OF THIS ORDINANCE

The purpose of this Ordinance shall be to promote the public health, safety, morals, and general welfare of the Village of Batavia, referred to as the “Village”, and the residents thereof. The zoning regulations and districts as herein set forth have been designed to:

- A. Facilitate orderly and harmonious development;
- B. Secure safety from fire, flooding along natural watercourses, and other dangers;
- C. Provide adequate light and air;
- D. Prevent the overcrowding of land and avoid undue concentrations of population;
- E. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
- F. Foster convenient, compatible, and efficient relationships among land uses;
- G. Protect the historic resources of Batavia;
- H. Preserve and protect existing trees and vegetation, floodplains, stream corridors, scenic views, water quality, wildlife habitat, gateways, and corridors, and other areas of scenic and environmental significance from adverse impacts of land development;
- I. Ensure greater public safety, convenience, and accessibility through the physical design and location of land-use activities;
- J. Lessen congestion on the streets;
- K. Preserve the character and quality of residential neighborhoods;
- L. Enhance the quality of development through superior building and site design; and
- M. Serve as a tool to assist in the implementation of the Village of Batavia Comprehensive Plan.

1130.03 AUTHORITY

The Village of Batavia, in pursuance of the authority of the Village of Batavia, Ohio, hereby ordains and enacts into law the following chapters and sections.

1130.04 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after _____ 2024.

1130.05 APPLICABILITY

This Ordinance is applicable to all land located within the Village, as now or as may be hereafter established. The use of land and buildings or structures located upon the land, and the construction, reconstruction, alteration, expansion, or relocation of buildings or structures upon the land shall conform to the regulations applicable to the district in which the land is located. No land, building, structure, or premises shall be used for any purpose or in any manner other than that which is permitted in the district in which it is located. The Village of Batavia is exempt from this ordinance.

1130.06 RELATION TO THE BATAVIA COMPREHENSIVE PLAN

The administration, enforcement, and amendment of this ordinance should be generally consistent with the recommendations and policies of the Batavia Comprehensive Plan (referred to as “the Plan.”).

1130.07 TRANSITIONAL REGULATIONS

The purpose of transitional regulations is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, at the time of the adoption of this Ordinance.

A. Violations Continue

Any violation of the previous versions of this Ordinance shall continue to be a violation under this Ordinance and shall be subject to the penalties and enforcement set forth in Chapter 1141: Enforcement and Penalties, unless the use, development, construction, or other activity complies with the provisions of this Ordinance. Payment shall be required for any civil penalty assessed under the previous regulations, even if the original violation is no longer considered to be a violation under this Ordinance.

B. Uses, Structures, and Lots Rendered Nonconforming

Where any use, building, structure, or lot that legally existed on the effective date of this Ordinance does not meet all standards set forth in this Ordinance, such building, structure, or lot shall be considered nonconforming and shall be controlled by Section 1133.17 (Nonconformities).

C. Processing of Applications Commenced or Approved Under Previous Ordinances

1. Pending Applications

- a. Any complete application that has been submitted or accepted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this Ordinance, shall be reviewed in accordance with the provisions of the ordinance in effect on the date the application was deemed complete by the Village.
- b. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements during the pendency of an application submitted prior to the effective date of this Ordinance, the application shall expire and subsequent applications shall be subject to the requirements of this Ordinance.
- c. Any reapplication for an expired project approval shall meet the standards in effect at the time of reapplication.
- d. An applicant with a pending application may waive review available under prior ordinances through a written letter to the Village Zoning Department and request for review under the provisions of this Ordinance.
- e. Approved Projects shall remain valid for 180 days from the effective date of this Ordinance. If a building permit or certificate of occupancy is not issued within the 180 days, the permit shall be deemed void and a new zoning or sign permit, issued in conformance with the requirements of this Ordinance, shall be required.
- f. Approved rezoning requests, site plans, variances, and conditional uses that are valid on the effective date of this Ordinance shall remain valid until their expiration date, where applicable, and shall be subject to the standards that are in effect at the time of the approval.

1130.08 RELATIONSHIP TO OTHER LAWS AND AGREEMENTS

A. Conflict with Other Public Laws, Ordinances, Regulations, or Permits

This Ordinance is intended to complement other Village, state, and federal regulations that affect land use. This Ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this Ordinance are more restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions of this Ordinance shall govern.

B. Conflict with Private Third-Party Agreements

This Ordinance is not intended to revoke or repeal any easement, covenant, or other third-party private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private third-party agreement, then the requirements of this Ordinance shall govern. Nothing in this Ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this Ordinance. In no case shall the Village be obligated to enforce the provisions of any easements, covenants, or agreements between private third-parties.

1130.09 SEVERABILITY

- A. If any court of competent jurisdiction invalidates any provision of this Ordinance, then such judgment shall not affect the validity and continued enforcement of any other provision of this Ordinance.
- B. If any court of competent jurisdiction invalidates the application of any provision of this Ordinance to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.
- C. If any court of competent jurisdiction judges invalid any condition attached to the approval of a development review application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.
- D. Whenever a condition or limitation is included in an administrative action authorizing regulatory activity, then it shall be conclusively presumed that the authorizing officer, commission, or board considered such condition or limitation necessary to carry out the spirit and intent of this Ordinance, and that the officer, commission, or board would not have granted the authorization to which the condition or limitation pertained except in belief that the condition or limitation was lawful.

1130.10 USE OF GRAPHICS, ILLUSTRATIONS AND FIGURES

- A. Graphic, illustrations and figures are provided for illustration purposed only and shall not be construed as regulations. Where a conflict occurs or appears to occur between a provision in the text and any graphic, illustration or figure, the text shall control.

1130.11 BURDEN OF PROOF

- A. The burden of demonstrating that an application or any development subject to this Ordinance complies with applicable review and approval standards is to be borne by the applicant. Neither the Village, nor any other party shall have any burden to show that the standards set forth in the Ordinance have or have not been met by the applicant, or any person responsible for the proposed development.

CHAPTER 1131: ADMINISTRATIVE ROLES AND AUTHORITY

1131.01 PURPOSE

The purpose of this chapter is to identify the roles and responsibilities of various elected and appointed boards, as well as the duties of Village staff, in the administration of this Ordinance.

1131.02 SUMMARY TABLE OF REVIEW BODIES

- A. Table 1131-1 summarizes the review and decision-making responsibilities of the entities that have roles in the procedures set forth in Chapter 1132 (Development Review Procedures). Other duties and responsibilities of the entities are set forth in subsequent sections of this chapter.
- B. Even though not referenced in this chapter, other boards, commissions, government agencies, and non-government agencies may be asked by the Village Zoning Department, the Batavia Planning Commission, or Batavia Village Council, to review certain applications, including, but not limited to, map amendments (rezonings), text amendments, and planned unit developments.

Table 1131-1: Summary Table of Review Bodies					
H = Hearing (Public Hearing Required) M = Meeting (Public Meeting Required)			D = Decision (Responsible for Final Decision) A = Appeal (Authority to Hear/Decide Appeals) R = Recommendation (Responsible for Review and a Recommendation)		
Procedure	Section	Village Council	Planning Commission	Board of Zoning Appeals (BZA)	Village Zoning Department
Zoning Ordinance Text or Map Amendment	1132.05	H-D	H-R		R
Site Plan Review - Major	1132.06		M-D		R
Site Plan Review - Admin.	1132.06				D
Conditional Use Review	1132.07		H-D		R
Conditional Use Administrative Review	1132.07				D
Appeals	1132.11			H-A	
Dimensional Variance	1132.09			H-D	R
Nonconforming Use Review	1132.10			H-D	R
Nonconforming Use Administrative Review	1132.10				D
Administrative Modification	1132.12				D
Zoning Permit	1132.13				D
Certificate of Occupancy	1132.14				D
Designation of Individual Landmarks & Hist. Districts	1140.05	H-D	H-R		

1131.03 VILLAGE COUNCIL

A. Powers and Duties

In addition to any other authority granted to Village council by ordinance, or state law, Village council shall have the following powers and duties related to this Ordinance:

1. Zoning Ordinance Text and Zoning Map Amendments
 - a. To initiate amendments to the text of this Ordinance or the Official Zoning Map of Batavia, hereafter referred to as the zoning map.
 - b. To hear and make a decision on applications for amendments to the text of this Ordinance or zoning map amendments pursuant to Section 1132.05 (Zoning Amendments).

1131.04 PLANNING COMMISSION

A. Establishment and Organization

1. The Village of Batavia Planning Commission shall be established pursuant to the Village of Batavia.

B. Powers and Duties

The Village of Batavia Planning Commission shall have the following powers and duties under this Ordinance:

1. Zoning Ordinance Text and Zoning Map Amendments
 - a. To make requests for Village council to initiate amendments to the text of this Ordinance or the zoning map (rezoning).
 - b. To review and make recommendations to Village council on applications for amendments to the text of this Ordinance or zoning map amendments pursuant to Section 1132.05 (Zoning Amendments).
2. Major and Administrative Site Plan Review

To review and make decisions on applications for major site plan review pursuant to Section 1132.06 (Site Plan Review). The Village Zoning Department shall conduct administrative site plan review.
3. Conditional Use Review

To hear and make decisions on applications for a conditional use review pursuant to Section 1132.07 (Conditional Use Review).
4. Other

To exercise such other powers, and perform such other duties, as provided by Ordinance or other law.

C. Rules and Regulations

1. The Planning Commission may, by a majority vote of its entire membership, adopt Rules and Regulations to govern such matters as, officers, agendas, voting, order of business, and related matters as it may consider necessary or advisable, provided such rules and procedures are consistent with the provisions of this Ordinance and other Ordinances of the Village of Batavia, Ohio.
2. The Planning Commission shall keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the Village Zoning Department.

3. A transcript of the minutes of the Planning Commission shall be provided if requested by any party, at the expense of the requesting party, and the transcript shall constitute the record for proceedings.

D. Meetings

The Planning Commission shall meet in accordance with the meeting schedule as established within the Rules and Regulations for Planning Commission. Notice of such meetings shall conform in all respects to the requirements of Ohio's Open Meetings Act.

1131.05 BOARD OF ZONING APPEALS (BZA)

A. Establishment and Organization

The Village of Batavia Board of Zoning Appeals shall be established pursuant to the Village of Batavia Ordinances.

B. Powers and Duties

The Village of Batavia Board of Zoning Appeals, hereafter referred to as the BZA, shall have the following powers and duties under this Ordinance:

1. Appeal of Administrative Decisions

The BZA shall have the power to hear and decide appeals where it is alleged, by the appellant, that there is an error in any administrative order, requirement, decision, grant, or refusal made by an official or board of the Village in the enforcement of this Ordinance.

2. Dimensional Variances

The BZA shall have the power to hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusual shape of a site, or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements of the Ordinance would deprive the applicant of reasonable capabilities to make use of the land.

3. Change of Nonconforming Use

The BZA shall have the power to hear and decide, in accordance with the provisions for this Ordinance, requests for the change from one nonconforming use to another.

C. Meetings

1. The BZA shall conduct meetings at the call of the chair, who shall give written or oral notice to all members of the BZA at least five days prior to the meeting. Notice shall also comply with all requirements of Ohio's Open Meetings Act.
2. The BZA chair or designee shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.
3. The BZA shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.

D. Quorum and Voting

1. Two members of the BZA shall constitute a quorum. Any member of the BZA who has any direct or indirect financial interest, or other conflict of interest, in the outcome of any question before the BZA shall disclose the nature of the interest and shall disqualify himself from voting on the question.
2. No resolution overruling an administrative decision of a board or office of the Village (appeal) shall be adopted except by the affirmative vote of two members of this Board.

E. Bylaws and Minutes

1. The BZA may, by a majority vote of its entire membership, adopt bylaws governing its procedures on such matters as officers, agendas, voting, order of business, and related

matters as it may consider necessary or advisable, provided such bylaws are consistent with the provisions of this Ordinance and the Village of Batavia, Ohio.

2. The BZA shall keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the BZA.
3. A transcript of the minutes of the BZA shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record of proceedings.

1131.06 Village Zoning Department

A. General Authorization

The Village Zoning Department, under the supervision of the Village Administrator, is hereby authorized to perform the powers and duties established in Subsection B below.

B. Powers and Duties

In addition to the jurisdiction, authority, and duties that may be conferred upon the Village Zoning Department by other provisions of this Ordinance, the Village of Batavia, Ohio, and general or special laws of the state of Ohio, the Village Zoning Department shall have the following jurisdiction, powers, and duties under this Ordinance:

1. Ordinance Administration

Establish application requirements and schedules for development review applications, to prepare staff reports, and to take any other actions necessary to administer the provisions of this Ordinance.

2. Ordinance Enforcement

Determine the existence of any violations of this Ordinance and cause such notifications, revocation notices, stop orders or tickets to be issued, or initiate such other administrative or legal action as needed, to address such violations.

3. Administrative Reviews

To review and make decisions on applications for administrative reviews as authorized in Chapter 1132.04.

4. Staff Reports

The Village Zoning Department shall prepare staff reports and recommendations for all development review procedures that require planning commission, BZA, or Village council review and/or decisions.

5. Review and Issuance of Permits and Certificates

To review and make decisions on applications for all zoning permits, sign permits, and other permits in accordance with this ordinance and other applicable ordinances of the Village.

6. Inspections

Conduct inspections of buildings and uses of land to determine compliance with this Ordinance, and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.

7. Technical Support and Assistance

The Village Zoning Department shall coordinate meetings related to this Ordinance and provide support, expertise, and technical assistance to the Village council, Planning Commission, and the BZA.

8. Maintain Records

Maintain a record of all administrative and legislative proceedings under this Ordinance as it pertains to the Village Zoning Department.

9. Zoning Map

Maintain in current status the zoning map which shall be kept on permanent display in the Village offices.

CHAPTER 1132: DEVELOPMENT REVIEW PROCEDURES

1132.01 PURPOSE

The purpose of this Chapter is to identify the development review procedures used in the administration of this Ordinance.

1132.02 AGRICULTURAL EXEMPTION

- A. Nothing contained within this Ordinance shall prohibit the use of land, the primary use of which is for agricultural purposes, as defined herein, or the construction or use of any building or structure incidental to such agricultural use.
- B. Any tract of land less than five acres in area shall not be deemed to be primarily used for agricultural purposes for the purpose of this Ordinance.
- C. Agricultural buildings shall comply with the applicable minimum yard requirements of the district in which they are located.

1132.03 COMMON REVIEW REQUIREMENTS

The requirements of this section shall apply to all development review applications and procedures subject to development review under this Ordinance, unless otherwise stated.

- A. Authority to File Applications
 - 1. Unless otherwise specified in this Ordinance, development review applications may be initiated by:
 - a. The owner of the property that is the subject of the application; or
 - b. The owner's authorized agent.
 - 2. When an authorized agent files an application under this Ordinance on behalf of a property owner, the property owner shall be required to sign the application, which shall bind all decisions, and related conditions of approval, to the owner of the property.
- B. Application Submission Schedule

The schedule for the submission of applications in relation to scheduled meetings of the review bodies shall be established by the Village Zoning Department and made available to the public.
- C. Application Contents
 - 1. Submittal Requirements

Applications required under this Ordinance shall be submitted in a form and in such numbers as established by the Village Zoning Department and made available to the public.
 - 2. Submission of Fees

Applications shall be accompanied by a fee as established by Village council and pursuant to Subsection 1132.03 (F).

3. Complete Application Determination

- a. The Village Zoning Department shall only initiate the review and processing of applications submitted under this chapter if such application is determined to be complete.
- b. The Village Zoning Department shall make a determination of application completeness within three business days of the application filing.
- c. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Ordinance.
- d. If an application is determined to be incomplete, the Village Zoning Department shall provide notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a future re-submittal application.
- e. If the applicant fails to re-submit a complete application within 60 days, the original fee shall be forfeited and the applicant shall be required to submit a new application including fees pursuant to this chapter.
- f. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

D. Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this Ordinance (e.g., a planned unit development and administrative modification), the applications for those approvals shall, at the option of the applicant, be processed simultaneously, so long as all applicable requirements are satisfied for all applications.

E. Effect of Pre-application Conferences or Meetings

Discussions that occur during pre-application conferences or meetings are not binding on the Village and do not constitute official assurances or representations by the Village or its officials regarding any aspects of the plan or application discussed.

F. Fees

1. Determination of Fees

The determination of a fee schedule for the development review procedures of this Ordinance shall be established by a separate Village ordinance. Village council may adjust the fees from time-to-time.

2. Fees to be Paid

No application shall be processed until the established fee has been paid.

3. Refund of Fees

Application fees are not refundable except where the Village Zoning Department determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.

G. Public Notification for Public Meetings

Applications for development approval that require public meetings shall comply with all applicable ORC requirements and the provisions of this chapter with regard to public notification.

H. Public Notification for Public Hearings

Applications for development approval that require public hearings shall comply with all applicable ORC requirements and the provisions of this chapter with regard to public notification.

1. Content

Notices for public hearings, whether by publication or mail (written notice), shall, at a minimum:

a. Identify the Application

Identify the address or location of the property subject to the application and the name, address, and telephone number of the applicant or the applicant's agent.

b. Specify the Date, Time, and Place of the Public Hearing

Indicate the date, time, and place of the public hearing.

c. Describe the Subject Property

Describe the land involved by street address, or by legal description and the nearest cross street, and project area (size).

d. Describe the Nature and Scope of the Application

Describe the nature, scope, and purpose of the application or proposal.

e. Notify the Public Where to View the Application

Identify the location (e.g., the offices of the Village Zoning Department) where the public may view the application and related documents.

f. Notify the Public Where They May be Heard

Include a statement that the public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.

g. Allow for Written Comments

Include a statement describing where written comments will be received prior to the public hearing.

2. Notice Requirements

Published and mailed notice for public hearings shall be provided as defined in Table 1132-1 (Public Notice Requirements).

Table 1132-1: Public Notice Requirements		
Development Review Procedure	Mailed Notice	Published Notice
Zoning Text Amendment	No mailed notice is required.	Published notice required a minimum of 20 days before a public hearing.
Zoning Map Amendment	Written notice shall be required a minimum of 20 days before the public hearing in front of planning commission and Village council unless otherwise exempted in Subsection 1132.03 (H)(4).	
Conditional Uses	Written notice shall be required a minimum of 20 days before the public hearing in front of planning commission unless otherwise exempted in Subsection 1132.03 (H)(4).	

Table 1132-1: Public Notice Requirements

Development Review Procedure	Mailed Notice	Published Notice
Appeals	Written notice shall be required a minimum of 20 days before the public hearing in front of BZA unless otherwise exempted in Subsection 1132.04 (H)(4).	Published notice required a minimum of 20 days before a public hearing.
Variances	Written notice shall be required a minimum of 20 days before the public hearing in front of BZA unless otherwise exempted in Subsection 1132.04 (H)(4).	
Change or Modification of Nonconforming Uses		

3. Published Notice

When the provisions of this Ordinance require that notice be published, the agency responsible for notification shall prepare the content of the notice and publish the notice in a newspaper of general circulation. The content and form of the published notice shall be consistent with the requirements of Subsection 1132.04 (H) and state law.

4. Written Notice

- a. The Village Zoning Department shall notify property owners within 200 feet of the subject property by regular mail, of information required in Subsection 1132.04 (H) and state law.
- b. Written notice to property owners within 200 feet of the subject property owner shall be postmarked no later than the minimum number of days required in Subsection 1132.04 (H)(2).
- c. If more than 100 properties are located within 200 feet of the subject property, written notice shall not be required and only published notice shall be required.

5. Constructive Notice

- a. Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the agency having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this Ordinance, and such finding shall be made available to the decision-making body prior to final action on the request.
- b. When the records of the Village document the publication, mailing, and posting of notices as required by this chapter, it shall be presumed that notice of a public hearing was given as required by this section.

I. Continuation of Public Hearings

A public hearing for which proper notice was given may be continued to a later date without again complying with the written notice requirements of this Ordinance, provided that the continuance is set for a date within 90 days and the date and time of the continued hearing are announced at the time of the continuance.

J. Effect of Inaction on Applications

When a review or decision-making body fails to take action on an application within the time required, such inaction shall be deemed a disapproval of the application.

K. Administrative Review Procedure

1. Application

An application for administrative review authorized under this chapter shall be made in accordance with Section 1132.04 (Common Review Requirements).

2. Village Zoning Department Review and Comment

Within 14 days after the application is determined to be complete, the Village Zoning Department shall review the application and provide the applicant with comments on compliance with this Ordinance.

3. Village Zoning Department Referral

The Village Zoning Department may refer consideration of an administrative review to the applicable reviewing body if it determines in its professional judgement that the request is likely to have a negative land use impact.

4. Village Zoning Department Decision

If the Village Zoning Department finds that the application complies with this Ordinance and applicable criteria, the department shall approve the request and the applicant may then apply for the appropriate zoning and/or building permits. If the Village Zoning Department provides comments on the application to better bring it into compliance with this Ordinance and the applicable approval criteria, the applicant shall be required to re-submit revised plans satisfying the comments from the department. Following the submittal of a revised application that satisfies all comments the department shall approve the application and the applicant may then apply for the appropriate zoning and/or building permits. Appeals of the Village Zoning Department's decision shall be referred to the Village board or commission with the applicable reviewing authority.

1132.04 ZONING AMENDMENTS

A. Purpose

The purpose of a text or map amendment is to make adjustments due to changed conditions, changes in public policy, recommendations of the Batavia Comprehensive Plan or changes necessary to advance the health, safety, and general welfare of the Village.

B. Applicability

This section shall apply to requests to amend the text of this Ordinance or to amend the Official Zoning Map of the Village of Batavia, hereafter referred to as the "zoning map."

C. Initiation

1. Pursuant to Subsection 1132.04 (A), any person having authority to file applications may initiate an application for a zoning amendment.
2. The planning commission may submit a request to the Village council requesting Village council to initiate a zoning text or zoning map amendment; or
3. Village council may initiate a zoning text or zoning map amendment.

D. Review Procedure

The review procedure for a zoning text amendment or an amendment of the zoning map shall be as follows unless otherwise modified in Subsection 1132.04 (E).

1. Step 1 – Application

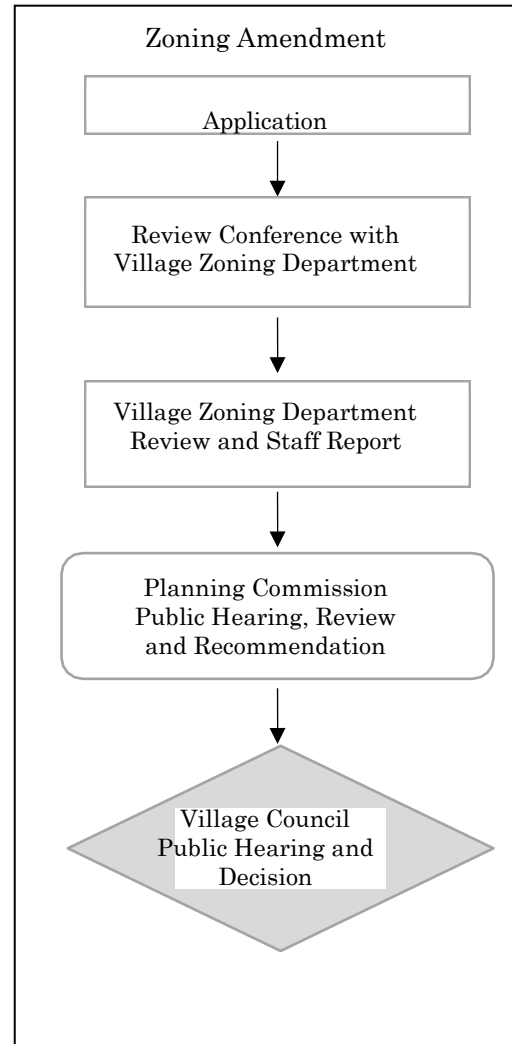
The applicant shall submit an application in accordance with Section 1132.04 (Common Review Requirements) and with the provisions of this chapter.

2. Step 2 – Review Conference for Zoning Map Amendments

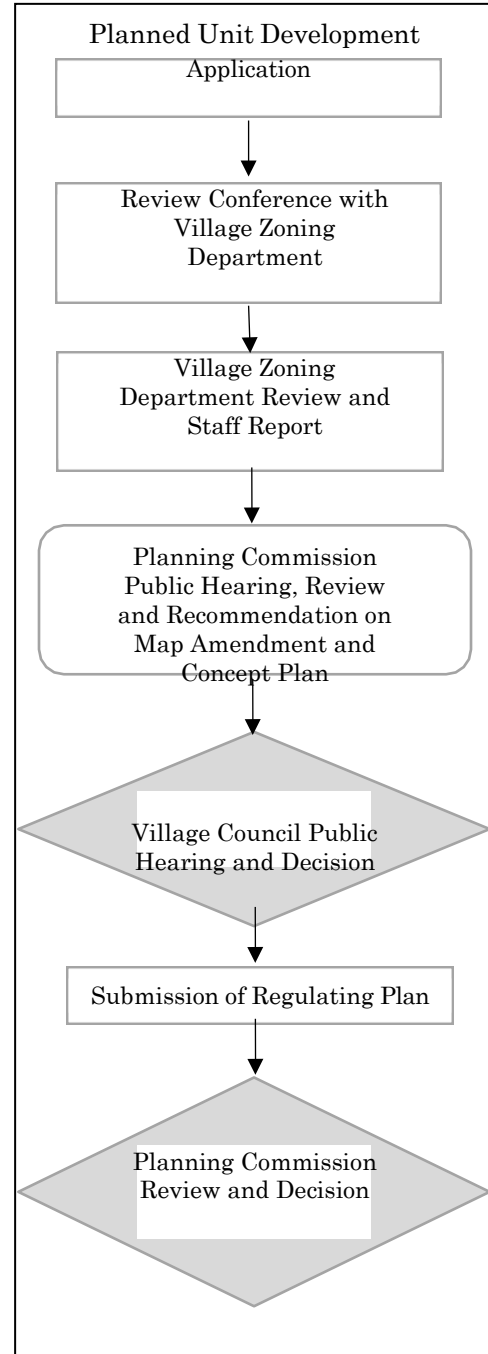
- a. The applicant shall meet with the Village Zoning Department for a review conference prior to the Planning Commission review and recommendation (Step 4). The applicant is strongly encouraged to meet with the Village Zoning Department prior to the application.
- b. As part of the conference, the applicant shall supply preliminary information to the Village Zoning Department in a form established by the department. Such information shall be submitted at least three business days prior to the conference.
- c. The purpose of the conference shall be to discuss the proposed development, review submittal requirements, and discuss compliance with the provisions of this Ordinance prior to the submission of an application.

3. Step 3 – Village Zoning Department Staff Report

- a. Prior to the Planning Commission meeting where the text or map amendment is scheduled for review, the Village Zoning Department shall review the application and prepare a staff report.



- b. The Village Zoning Department shall forward the application and staff report to the Planning Commission for their review.
 4. Step 4 – Planning Commission Review and Recommendation
 - a. The Planning Commission shall hold a public hearing on the application for an amendment and give public notice in accordance with Subsection 1132.03 (H). The Planning Commission shall review and make a recommendation on the zoning text or zoning map amendment application during a public meeting.
 - b. The Planning Commission shall review and recommend approval, approval with conditions, or disapproval of the application to Village council. The Planning Commission may also continue the meeting for further consideration.
 - c. Following the recommendation on the proposed amendment, the Planning Commission shall, within a reasonable amount of time, advise Village council on its recommendation and include a statement setting forth the reasons and substantiation for such recommendation.
 5. Step 5 – Village Council Hearing and Decision
 - a. Within a reasonable time after receipt of the Planning Commission's recommendations and findings concerning the application, Village council shall hold a public hearing on the application for an amendment and give public notice in accordance with Subsection 1132.03 (H).
 - b. Within 90 days of the Planning Commission's public meeting and recommendations, Village council shall take action to approve, approve with conditions, or disapprove the proposed amendment.
- E. Development Plan Requirements for the PUD District
 1. Concept and regulating plans, in accordance with this section, shall be submitted in a form and in quantities established by the Village Zoning Department as part of the submittal requirements for the PUD District.
 2. A concept plan shall be submitted as part of the zoning map amendment application. The review and decision on the concept plan shall occur simultaneously with the zoning map amendment process.



3. Following the zoning map amendment, including the approval of the concept plan, the applicant shall submit a regulating plan that will be reviewed at a public meeting of the Planning Commission who shall approve, approve with conditions, or disapprove the regulating plan.
4. The Planning Commission shall review the submitted regulating plan with regard to its compliance with the required elements of the Ordinance and other applicable regulations, and its conformity with the approved concept plan.
5. Upon Planning Commission approval of the regulating plan, a copy of said plan shall be forwarded to the Village Zoning Department, who shall grant permits only in accordance with the approved regulating and other regulations as may be required by this Ordinance.
6. Upon approval of the regulating plan, the Planning Commission shall review the submitted final plat with regard to its compliance with the applicable requirements of the subdivision regulations and its conformance with the approved regulating plan.
7. Upon Planning Commission approval of the final plat, copies of said plat, certified by the Planning Commission, and suitable for recording, shall be forwarded by the Planning Commission to the office of the County Recorder to be recorded in accordance with procedures established in Clermont County's Subdivision Regulations.
8. Waiver of Subdivision Regulations
Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the submittal requirements for the regulating plan and final plat be substituted therefore. Those requirements not specifically waived by the Planning Commission shall conform to the subdivision regulations.
9. Amendments
The Planning Commission, in approving the regulating plan, authorizes the Village Zoning Department to approve minor adjustments from the approved concept plan or regulating plan, provided that the adjustments are limited to inconsequential changes (As determined by the Zoning Director) of the overall site layout, density, and/or individual site elements so long as the modification do not:
 - a. Impact the intent of the approved plan;
 - b. Substantial Land use changes;
 - c. Increase overall density by more than 25%;
 - d. Significantly alter circulation patterns (vehicular and pedestrian);
 - e. Substantially affect the location of density, use, or open space in a way that affects the community or other applicable requirements of this Ordinance.Amendments that are not classified as minor adjustments shall require full review by the Planning Commission and Village council in compliance with Subsection 1132.04 (D).
10. Approval Criteria
In addition to the general approval criteria for zoning text and zoning map amendments in Subsection 1132.04 (G), the Planning Commission and Village council may also consider the following criteria to make a decision on all applications for a PUD:
 - a. Whether the proposed PUD is consistent with the recommendations and policies of the Village of Batavia Comprehensive Plan or other applicable Village plans;
 - b. Whether the proposed PUD is consistent with the purpose of this Ordinance;
 - c. Whether the proposed PUD will provide community amenities to support the public health, safety, and general welfare including, but not limited to, land dedicated for safety-service purposes, additional park and recreational facilities, additional open

space, and non-vehicular connections (e.g., bike/hike trails) to the greater community.

- d. Whether the development is comprehensively planned and integrated, compact, and, where feasible, linked by pedestrian and vehicular connections to surrounding properties.
- e. Whether the proposed PUD will ensure efficient development within the Village;
- f. Whether the proposed PUD will result in a logical and orderly development pattern.

11. Expiration

- a. The regulating plan shall be submitted within one year of approval of the concept plan or the approval of the concept plan will expire and the plan will be deemed null and void.
- b. The Village Zoning Department may authorize an extension of three years if good cause is shown for the delay of the regulating plan submission. The Village Zoning Department can determine whether a concept plan should be reviewed by the Planning Commission to authorize such an extension. Permitted timeframes do not change with successive owners.
- c. Upon the expiration of the concept plan, the property shall still be zoned as a PUD with a voided concept plan. The property owner or agent may submit an application and new concept plan for consideration pursuant to Subsections 1132.04 (D) and (E) or an application for a zoning map amendment.
- d. Upon the expiration of the concept plan, Village council may initiate a rezoning or the Planning Commission may make a request to Village council for a rezoning of the property.
- e. For phased developments, Village Council and the Planning Commission may approve a phased regulating plan schedule as part of the concept plan. In such case, the approved time frames shall establish when the approved concept plan shall expire.

F. Changes to the Official Zoning Map

Upon approval of a zoning map amendment, the official zoning map shall be amended to illustrate the map amendment as approved.

G. Approval Criteria

Recommendations and decisions on text or map amendment shall be based on consideration of the following criteria:

- 1. Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact since the time that the original text or map designations were established;
- 2. Whether the proposed amendment is consistent with the policies of the Batavia Comprehensive Plan or other applicable Village plans;
- 3. Whether the proposed amendment is consistent with the purpose of this Ordinance;
- 4. Whether and the extent to which the proposed amendment addresses a demonstrated community need;
- 5. Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public;

6. Whether the proposed map amendment will ensure efficient development within the Village; and
7. Whether the proposed zoning map amendment will result in a logical and orderly development pattern.

1132.05 SITE PLAN REVIEW

A. Purpose and Scope

The purpose of site plan review is to ensure compliance with the development and design standards of this Ordinance and to encourage sound planning principles in the arrangement of buildings, the preservation of open space, the utilization of topography, and other site features and to promote overall quality development. A zoning permit shall not be issued for uses requiring site plan review until the site plan is approved pursuant to this section.

B. Initiation

Pursuant to Subsection 1132.03 (A), any person having authority to file applications may initiate an application for a site plan review.

C. Applicability

1. Except as specifically provided herein, no person shall commence any use or construct or alter any structure, or grade any lot or parcel in zones where a site plan is required without first obtaining an approved site plan pursuant to this section.
2. Unless exempted pursuant to Section 1132.05 (D) below, site plan review shall be required for the following types of development prior to the issuance of a zoning permit:
 - a. All nonresidential development;
 - b. All residential development; and
 - c. All conditional uses.

D. Exceptions

The following shall be exempted from site plan review:

1. Single-family and two-family dwellings;
2. Greenspace, open space, or other unimproved areas; and
3. The internal construction or change in floor area of a development that does not increase gross floor area, increase the intensity of use, or affect parking requirements on a site that meets all development and site design standards of this Ordinance.

E. Site Plan Classification

Site plans may be subject to review by the Village Zoning Department or by the Planning Commission depending on the classification of the proposed project. For the purposes of this Ordinance, site plans shall be classified as follows:

1. Administrative Site Plan

Administrative Site Plan shall include:

- a. Site plans for developments within the zone that are eligible for local tax incentives;

Table 1132-2 identifies the thresholds for an expansion to be classified for review as an administrative site plan. At such time as the total of all amendments (regardless of ownership) to a particular site exceeds the thresholds outlined in Table 1132-2, the entire site shall be required to conform to the applicable standards of this Ordinance and shall be subject to a major site plan review; and

Table 1132-2: Administrative Expansion Thresholds	
When Existing Structure Is	Administrative Expansion
0 – 1,000 sq. ft.	50% or less
1,001 – 10,000 sq. ft.	40% or less
10,001 – 25,000 sq. ft.	30% or less
25,001 – 50,000 sq. ft.	20% or less
50,001 sq. ft. and larger	10% or less

- b. Site plans for telecommunication co-locations that will not change or increase the physical dimensions of the tower, structure or base involving:
 - i. Co-location of new equipment
 - ii. Replacement and/or removal of existing transmission equipment

2. Major Site Plan

Major site plans shall include:

- a. Expansion or amendments of a site, excluding developments that fall under subsection 1132.05 (E)(1)(a), where one or more minor amendments has resulted in the expansion exceeding the thresholds outlined in Table 1132-2.
- b. Any administrative plan that the Village Zoning Department determines should be reviewed by the Planning Commission pursuant to the major site plan review process; and
- c. All site plans that do not fall into the administrative site plan classification shall be determined to be a major site plan.

F. Review Procedure for Administrative Site Plans

Applications for Administrative Site Plans shall follow the procedures in Section 1132.03(K).

G. Review Procedure for Major Site Plans

Planning Commission shall be responsible for reviewing and deciding on major site plans pursuant to the following procedure:

1. Step 1 – Application

An application for site plan review shall be made in accordance with Section 1132.03 (Common Review Requirements).

2. Step 2 – Village Zoning Department Staff Report

The Village Zoning Department shall review the application for site plan review and make a recommendation to the Planning Commission to approve, approve with conditions, or deny the site plan. The Village Zoning Department may also recommend the continuance of the matter to allow for further review.

3. Step 3 – Planning Commission Review and Decision on a Site Plan

- a. The Planning Commission will review applications for site plans at a regularly scheduled public meeting.
- b. The Planning Commission shall take action to approve, approve with conditions, or disapprove the proposed site plan within 60 days of the first meeting held to review the site plan.

H. Administrative Site Plan Approval Criteria

Recommendations and decisions on an administrative site plan shall be based on consideration of the following criteria:

1. Administrative site plans that address expansions to building footprint, based on the thresholds outlined in Table 1132-2, shall include information for the entire site, however, only the amendment shall be reviewed for compliance with applicable sections of the Ordinance.
2. That the proposed development is consistent with all the requirements of this Ordinance;
3. That the proposed development is in compliance with the applicable zoning district and overlay districts; and
4. That the proposed development meets all the requirements or conditions of any applicable development approvals (e.g., PUD or administrative modification).

I. Major Site Plan Approval Criteria

Recommendations and decisions on a major site plan shall be based on consideration of the following criteria:

1. That the proposed development is consistent with all the requirements of this Ordinance;
2. That the proposed development is in compliance with the applicable zoning district and overlay districts;
3. That the proposed development meets all the requirements or conditions of any applicable development approvals (e.g., PUD or administrative modification);
4. Whether the proposed improvements preserve the character and nature of the surrounding area, including the natural characteristics of the area;
5. Whether the proposed improvements are not constructed of unsightly, improper, or unsuitable materials;
6. Whether the proposed site and improvements shall have an appearance that will not have an adverse effect upon adjacent residential properties; and
7. Whether the proposed improvements are compatible and in harmony with the existing structures in the surrounding area.

J. Effect of a Site Plan Approval

1. Approving a site plan does not exempt the applicant from complying with all of the requirements of this Ordinance, the building code, housing code, and other regulations of the Village.
2. Approvals granted under a site plan review shall run with the land and shall not be affected by a change in ownership.

K. Subsequent Development

Development authorized by a site plan approval shall not be carried out until the applicant has secured all other approvals required by this Ordinance or any other applicable provisions of the Village. The approval of a site plan shall not ensure that the development approved as part of a site shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Ordinance or other applicable provisions are met.

L. Expiration

1. If a building permit has not been obtained within one year of a site plan approval, the site plan approval shall expire. The Village Zoning Department may authorize an extension of one year if good cause is shown for the delay of the building permit. Village Zoning Department can determine whether a site plan should be reviewed by the Planning Commission to authorize such an extension. Permitted timeframes do not change with successive owners.

M. Amendments

1. Amendments to site plans may be made pursuant to this section and are subject to the same limitations and requirements as those under which such plans were originally approved.
2. In the event an amendment cannot be measured in square footage, the cost of the addition, alteration, or modification as a percentage of the market value of existing principal structures on the site, as determined from the current Clermont County tax records, shall be used to determine if the amendment is within the thresholds outlined in Table 1132-2 and thus considered an administrative site plan.
3. The Planning Commission, in approving the site plan, authorizes the Village Zoning Department to approve minor adjustments from the approved site plan, provided that the adjustments are limited to 25% of the overall site layout, density, and/or individual site elements so long as the modification do not:
 - a. Impact the intent of the approved plan;
 - b. Increase overall density by more than 25%;
 - c. Significantly alter circulation patterns (vehicular and pedestrian);
 - d. Decrease the amount and/or usability of open space or recreation areas in a way that impact the adjoining property owners; or
 - e. Substantially affect the location of density, use, or open space in a way that affects the community or other applicable requirements of this Ordinance.

Amendments that are not classified as minor adjustments shall require full review by the Planning Commission and Village council in compliance with Subsection 1132.04 (D).

N. Control of Zoning, Building, and Other Permits

1. An approved site plan shall control the issuance of all zoning permits, and of other related permits and shall restrict the nature, location and design of all uses within the area described in the approved site plan.
2. No certificate of occupancy shall be issued by the Village Zoning Department until all improvements shown on an approved site plan have been completed in accordance with said plan, provided, however, that the Village Zoning Department may issue certificates of occupancy for developments which are to be staged in accordance with conditions established upon the approved site plan and provided further that the Village Zoning Department may issue a conditional certificate of occupancy, in accordance with the conditions and provisions of Subsection 1132.06 (Conditional Use Review) of this Ordinance.

1132.06 CONDITIONAL USE REVIEW

A. Purpose

The characteristics and impacts 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 recognized that this Ordinance should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, methods of operation, intensity of use, public facilities requirements and traffic generation. Accordingly, conditional uses shall conform to the procedures and requirements of this section

B. Initiation

Pursuant to Subsection 1132.03 (A), any person having authority to file applications may initiate an application for a conditional use.

C. Review Procedure

The review procedure for a conditional use shall be as follows:

1. Step 1 – Application

An application for a conditional use shall comply with the provisions of Section 1132.03 (Common Review Requirements).

2. Step 2 – Village Zoning Department Staff Report

The Village Zoning Department shall review the application for a conditional use and make a recommendation to the planning commission to approve, approve with conditions, or deny the conditional use. The Village Zoning Department may also recommend the continuance of the matter to allow for further review.

3. Step 3 – Planning Commission Hearing and Decision on a Conditional Use

a. The Planning Commission shall fix a reasonable time for public hearing on the conditional use application and give public notice in accordance with Subsection 1132.03 (H).

b. Any person may appear in person, or by agent, or by attorney.

c. Prior to granting a conditional use permit, the Planning Commission shall find that the application for a conditional use permit meets all of the applicable requirements of this Ordinance.

d. The Planning Commission shall take action to approve, approve with conditions, or disapprove the proposed conditional use. The planning may continue the hearing for further consideration.

e. The Planning Commission may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Commission's minutes and on the conditional use approval.

4. Step 4 – Recording of the Conditional Use Approval

The conditional use approval shall be recorded in the office of the Clermont County Clerk and one copy of said approval attached to the deed for the property for which it is issued.

D. Approval Criteria

In order to approve conditional use, the Planning Commission shall use the following review criteria:

1. The use is in fact a conditional use as established within the applicable zoning district;
2. The use will be harmonious with, and in accordance with, the purpose of this Ordinance and consistent with the policies of the Batavia Comprehensive Plan;
3. The use will conform to the general character of the neighborhood in which it will be located;
4. The use complies with all applicable provisions of this Ordinance including any use-specific provisions established in Chapter 1133 (Zoning Districts and Use Regulations);
5. 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 will not change the essential character of the same area;
6. 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;
7. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community; and
8. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

E. Effect of a Conditional Use Permit

1. Approving a conditional use does not exempt the applicant from complying with all of the requirements of this Ordinance, the building code, housing code, and other regulations of the Village.
2. Approvals granted under a conditional use permit shall run with the land and shall not be affected by a change in ownership.
3. The breach by the applicant of any condition, safeguard, or requirement expressed or referred to on the conditional use permit shall render the permit void and shall constitute a violation of this Ordinance.
4. The Planning Commission shall have power to revoke conditional use approvals for noncompliance with the conditions contained thereon. Furthermore, the Planning Commission shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in person and for such cost.
5. Only the approved conditional use shall be permitted on the subject site. Any change in conditional uses shall require a new application and review pursuant to the section.
6. If the conditional use ceases and the property owner intends to reuse the property for a permitted use, the applicant shall be required to apply for a zoning permit pursuant to Section 1132.12 (Zoning Permit).

F. Subsequent Development

Development authorized by a conditional use approval shall not be carried out until the applicant has secured all other approvals required by this Ordinance or any other applicable provisions of the Village. The approval of a conditional use shall not ensure that the development approved as a conditional use shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Ordinance or other applicable provisions are met.

G. Expiration

If a building permit has not been obtained within one year of conditional use approval, the conditional use approval shall expire. The Village Zoning Department may authorize an extension of one year if good cause is shown for the delay of the building permit. Village Zoning Department can determine whether a conditional use should be reviewed by the Planning Commission to authorize such an extension. Permitted timeframes do not change with successive owners.

H. Amendment

A conditional use approval may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval. A request for a change in the conditions of an approved conditional use shall be considered an amendment and subject to the full review procedure set forth in this section. However, the Village Zoning Department may review Administrative Modifications for minor adjustments from the approved conditional use, provided that the adjustments do not:

- a. Affect the spatial relationship of structures more than 20%;
- b. Change land uses;
- c. Increase overall density by more than 20%;
- d. Significantly alter circulation patterns (vehicular and pedestrian);
- e. Decrease the amount and/or usability of open space or recreation areas more than 10%;
- f. Substantially affect other applicable requirements of this Ordinance.

Application for Administrative Modification shall follow the procedures in Section 1132.03 (K)

I. Permanent Compliance with Conditions

Once the Planning Commission has approved a conditional use and all the conditions required are of such type that they can be completely and permanently satisfied, the Village Zoning Department, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use approval which is on file with the Clermont County Clerk.

1132.07 CERTIFICATE OF APPROPRIATENESS

Not currently needed at this time.

1132.08 VARIANCE

A. Purpose and Scope

The variance process is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create an unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Ordinance. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose of property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

B. Initiation

Pursuant to Subsection 1132.04 (A), any person having authority to file applications may initiate an application for a variance.

C. Review Procedure

The review procedure for a variance shall be as follows:

1. Step 1 – Application for a Variance

An application for a variance shall be made in accordance with Section 1132.03 (Common Review Requirements)

2. Step 2 – Village Zoning Department Staff Report

The Village Zoning Department shall review the application and make a recommendation to the BZA to approve, approve with conditions, or disapprove the variance application. The Village Zoning Department may also recommend the continuance of the matter to allow for further review.

3. Step 3 – BZA Hearing and Decision on a Variance

- a. The BZA shall hold a public hearing for the variance application within 60 days of the application and give public notice in accordance with Subsection 1132.03 (H).
- b. The BZA shall hear and decide to approve, approve with conditions, or deny the variance.

In approving a variance, the BZA may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to ensure compliance with the standards in this section. The conditions shall be identified in the variance approval.

D. Approval Criteria

The following criteria shall be used to review all applications for variances:

1. The BZA shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by this Ordinance in the zone in question, or to alter the density of dwelling unit requirements of the zone in question.
2. The BZA shall not grant a variance as authorized in this Ordinance unless it can determine that there are practical difficulties encountered by the applicant in complying with the Ordinances, regulations, measures and orders of administrative officials or agencies governing zoning. This evaluation shall include, but is not limited to, the following criteria:
 - a. Whether the property will yield a reasonable return without the variance or whether there can be beneficial use of the property;
 - b. Whether the variance is substantial;
 - c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as

a result of the variance;

- d. Whether the variance would adversely affect the delivery of governmental services;
- e. Whether the property owner purchased the property with knowledge of the zoning restrictions;
- f. Whether the problem can feasibly be addressed through some method other than variance; and
- g. Whether the variance preserves the spirit and the intent behind the Ordinance and whether substantial justice would be done by granting the variance.

No single factor listed above shall control, and not all factors shall be applicable in each case. Each case shall be determined on its own facts.

E. Findings of Fact

Prior to granting a variance:

1. The BZA shall make finding that the applicant has met the requirements of this section;
2. The BZA shall make a finding that reasons set forth in the application justify the granting of a dimensional variance and that the dimensional variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and The BZA shall make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise, detrimental to the public welfare.

F. Effect of a Variance

1. The issuance of a variance shall authorize only the particular variation that is approved in the variance.
2. A variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

G. Subsequent Development

1. Development authorized by the variance shall not be carried out until the applicant has secured all other approvals required by this Ordinance or any other applicable provisions of the Village.
2. A variance shall not ensure that the development approved as a minor administrative modification shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Ordinance or other applicable provisions are met.

H. Expiration

1. Unless otherwise specified in the variance, if a building permit has not been obtained within one year of the variance approval, the variance shall expire. The Village Zoning Department may authorize an extension of one year if good cause is shown for the delay of the building permit. Village Zoning Department can determine whether a variance should be reviewed by the BZA to authorize such an extension. Permitted timeframes do not change with successive owners.

I. Amendment

A variance may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval. A request for a change in the conditions of approval of a variance shall be considered an amendment and subject to the full review procedure set forth in this section.

J. Appeal

The decision of the BZA may be reviewed by the Court of Common Pleas.

1132.09 CHANGE OR MODIFICATION OF NONCONFORMING USES

A. Purpose and Scope

The purpose of this process is to allow for the Village to consider any change or modification of a use that is considered to be a legal nonconforming use.

B. Initiation

Pursuant to Subsection 1132.03 (A), any person having authority to file applications may initiate an application for a change or modification of a nonconforming use.

C. Review Procedure

The review procedure for a change or modification of a nonconforming use shall be as follows:

1. Step 1 – Application for Change or Modification of Nonconforming Uses

An application for a change or modification to a nonconforming use shall be made in accordance with Section 1132.03 (Common Review Requirements).

2. Step 2 – Village Zoning Department Staff Report

The Village Zoning Department shall review the application and make a recommendation to the BZA to approve, approve with conditions, or disapprove the application. The Village Zoning Department may also recommend the continuance of the matter to allow for further review.

3. Step 3 – BZA Hearing and Decision on a Change or Modification of a Nonconforming Use

a. The BZA shall hold a public hearing for the application for a change or modification of a nonconforming use within 60 days of the application and give public notice in accordance with Subsection 1132.03 (H).

b. The BZA shall hear and decide to approve, approve with conditions, or deny the application.

4. In approving a application, the BZA may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to ensure compliance with the standards in this section. The conditions shall be identified in the approval of the change or modification of the nonconforming use.

5. Step 2 – Village Zoning Department Staff Report

The Village Zoning Department shall review the application and make a recommendation to the BZA to approve, approve with conditions, or disapprove the application. The Village Zoning Department may also recommend the continuance of the matter to allow for further review.

6. Step 3 – BZA Hearing and Decision on a Change or Modification of a Nonconforming Use

a. The BZA shall hold a public hearing for the application for a change or modification of a nonconforming use within 60 days of the application and give public notice in accordance with Subsection 1132.03 (H).

b. The BZA shall hear and decide to approve, approve with conditions, or deny the application.

- c. In approving a application, the BZA may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to ensure compliance with the standards in this section. The conditions shall be identified in the approval of the change or modification of the nonconforming use.

D. Approval Criteria

The following criteria shall be used to review all applications for a change or modification of a nonconforming use:

1. The BZA shall find that the new nonconforming use is in the same or more restrictive classification of use as the prior nonconforming use. In the determination of the same or more restrictive classification of use, the applicant shall establish and the BZA:
 - a. That the new nonconforming use shall generate no more vehicular traffic (automobile and truck) than the prior nonconforming use;
 - b. That the new non-conforming use is of a nature which will emit no more noise and air pollution than the prior nonconforming use;
 - c. That the new nonconforming use will be equal or more in character with the existing neighborhood than the prior nonconforming use, in that it is equally or more in conformance with the uses permitted in the zone in which the use is located, than the prior nonconforming use.
2. Any approved change or modification of a nonconforming use granted by the BZA shall conform to the requirements of this Ordinance, including, but not limited to parking requirements, sign regulations and yard requirements, and all other pertinent Village ordinances.
3. The BZA shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at which time its use became nonconforming.

E. Effect of an Approved Change or Modification of a Nonconforming Use.

The change of nonconforming use, as may be granted by the BZA, applies to the property for which it is granted and not to the individual who applied and, therefore, cannot be transferred by the applicant to a different property.

F. Subsequent Development

1. Development authorized by the BZA shall not be carried out until the applicant has secured all other approvals required by this Ordinance or any other applicable provisions of the Village.
2. A change or modification of nonconforming use shall not ensure that the development approved shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Ordinance or other applicable provisions are met.

G. Expiration

1. In the case where the change of nonconforming use has not occurred within one year after the date of granting thereof, the change of nonconforming use permit shall expire. The Village Zoning Department can authorize an extension of one year if good cause is shown for the delay of the change of nonconforming use. Village Zoning Department can determine whether a change of nonconforming use should be reviewed by the BZA to authorize such an extension. Permitted timeframes do not change with successive owners.
2. Upon written request, one extension of six months may be granted by the BZA if the applicant can show good cause.

H. Amendment

A change or modification of a nonconforming may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval. A request for a change in the conditions of approval shall be considered an amendment and subject to the full review procedure set forth in this section.

The Village Zoning Department may approve an administrative change or modification to an existing nonconforming use, provided the change or modification:

1. Involves a change in land that is not substantially different and is similar in character and scale to the current nonconforming use.
2. The modification results in the reduction in nonconformity, bringing the use into closer conformity with the zoning ordinance.

Application for administrative review of a change or modification of a nonconforming use shall follow the procedures in Section 1132.03(K).

I. Appeal

The decision of the BZA may be reviewed by the Court of Common Pleas as provided in Chapter 2505 and 2506 of the Ohio Revised Code.

1132.10 APPEALS

A. Purpose and Scope

This section sets out the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision of the Village Zoning Department, other administrative official, or administrative decision of a board of the Village.

B. Initiation

Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the Village Zoning Department, other administrative official, or administrative decision of a board of the Village charged with the administration or enforcement of this Ordinance.

C. Review Procedure

The review procedure for an appeal shall be as follows unless otherwise specified in this Ordinance:

1. Step 1 – Submission of Appeal (Application)
 - a. An appeal pursuant to this section shall be initiated by filing a written appeal of the administrative decision or determination within 30 days of the date of the order, decision, determination, or interpretation with the Village Zoning Department

- b. An appeal shall be made in accordance with Section 1132.04 (Common Review Requirements)
 - 2. Step 2 – Forwarding of the Record to the BZA

The Village Zoning Department shall forthwith transmit to the BZA all papers constituting the record upon which the action from was taken and shall be treated as and be the respondent in such further proceedings.
 - 3. Step 3 – BZA Hearing and Decision on Appeal
 - a. The BZA shall hold a public hearing for the appeal within 60 days of the application and give public notice in accordance with Section 1132.03 (H).
 - b. The affected party may appear at the hearing in person or by attorney.
 - c. The BZA shall make a decision on the appeal within 60 days of the date of the hearing.
- D. Review Criteria

An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent material and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural or substantive requirements of this Ordinance, state law, or the federal or state constitutions.
- E. Conditions

The BZA may impose conditions upon an affirmative decision to ensure that the requirements and purposes of this ordinance are followed in the order, decision, determination, or interpretation.
- F. Stay

A properly submitted appeal shall stay all administrative proceedings by the Village in furtherance of the action appealed, unless the Village Zoning Department or other administrative official from whom the appeal is taken certifies to the BZA that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the BZA for good cause shown.
- G. Appeal

The decision of the BZA may be reviewed by the Court of Common Pleas.

1132.11 ADMINISTRATIVE MODIFICATIONS

A. Purpose and Scope

1. This section outlines the procedure and standards for administrative modifications, which are minor modifications of ten percent or less of any numeric dimensional standard set out in Chapter 1134: Site Development Standards.
2. An administrative modification of those standards related to signs and dimensional standards in the MSOD district shall be prohibited.

B. Initiation

Pursuant to Subsection 1132.03 (A), any person having authority to file applications may initiate an application for an administrative modification.

C. Review Procedure

Applications for administrative modifications shall follow the procedures Section 1132.03(K).

D. Approval Criteria

In order to approve an administrative modification, the Village Zoning Department shall consider the following:

1. The requested modification is consistent with the Batavia Comprehensive Plan and the stated purpose of this Ordinance;
2. The requested modification eliminates an unnecessary inconvenience to the applicant, is not inconsistent with the character of development in the surrounding area, and will not result in incompatible land uses; and
3. Any adverse impacts resulting from the administrative modification will be mitigated to the maximum extent feasible.

E. Conditions

The Village Zoning Department may, in approving the administrative modification, impose such conditions and restrictions on the approval and the premises to be developed or used pursuant to such approval as are required to ensure compliance with the general intent and purpose of this Ordinance and to prevent or minimize adverse effects from the proposed administrative modification.

F. Effect of an Administrative Modification

1. Issuance of an administrative modification shall authorize only the particular modification that is approved.
2. An administrative modification, including any conditions, shall run with the land and shall not be affected by a change in ownership.

G. Subsequent Development

1. Development authorized by the administrative modification shall not be carried out until the applicant has secured all other approvals required by this Ordinance or any other applicable provisions of the Village.
2. An administrative modification shall not ensure that the development approved as an administrative modification shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Ordinance or other applicable provisions are met.

H. Expiration

Unless otherwise specified in the minor administrative modification, if a building permit has not been obtained within one year of the date of the minor administrative modification approval, the minor administrative modification shall expire. The Village Zoning Department may authorize an extension if good cause is shown for the delay of the building permit. Permitted timeframes do

not change with successive owners.

I. Amendment

An administrative modification may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval. A request for a change in conditions of approval of an administrative modification shall be considered to be an amendment.

1132.12 ZONING PERMIT

A. Purpose

A zoning permit shall be required in accordance with the provisions of this section in order to ensure that proposed development complies with the standards of this Ordinance, and to otherwise protect the public health, safety, and general welfare of the citizens of the Village.

B. Applicability

No land shall be used or building or other structure shall be erected, moved, added to, structurally altered, or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit issued by the Village Zoning Department. No zoning permit shall be issued which does not conform with the provisions of this Ordinance, except after written orders from the BZA.

C. Sign and Fence Permits

The review of sign and fence permits shall be subject to the same procedure and provisions of this section.

D. Initiation

Pursuant to Subsection 1132.03 (A), any person having authority to file applications may initiate an application for a zoning permit.

E. Review Procedure

The review procedure for a zoning permit shall be as follows:

1. Step 1 – Application

- a. The applicant shall submit an application in accordance with Subsection 1132.03 (Common Review Requirements).
- b. An application for a zoning permit shall not be accepted for uses subject to site plan review if the site plan has not been reviewed and approved.
- c. The applicant shall not begin construction until a zoning permit has been issued and setbacks approved in the field.
- d. An application for a zoning permit shall be accompanied by any applicable approved site plan or development plan. Such approvals, where required, shall precede and be a requirement for the issuance of a zoning permit.

2. Step 2 – Village Zoning Department Review and Decision on a Zoning Permit

- a. Within 14 days of the determination that the application (Step 1) is complete, the Village Zoning Department shall review the application and approve or deny the application for a zoning permit based on the provisions of this Ordinance.
- b. Upon approval of a zoning permit, one copy of any submitted plan shall be returned to the applicant, marked "Approved." Another copy, similarly marked, shall be retained by the Village Zoning Department.

- c. In cases where the Village Zoning Department denies a zoning permit, the Zoning Division shall provide written findings for the denial of the zoning permit application. The Department shall maintain a copy of the written findings for the records.
- F. **Approval Criteria**
 - In order to approve a zoning permit, the Village Zoning Department shall consider the following:
 - 1. The application complies with all applicable provisions of this Ordinance and the applicable zoning district; and
- G. The application complies with all approved site plans, development plans, or other development approvals.
- H. **Failure to Obtain**
 - Failure to obtain a zoning permit and/or comply with the approved plans shall be a violation of this Ordinance and punishable under Chapter 1141: Enforcement and Penalties of this Ordinance.
- I. **Expiration**
 - 1. Except as specifically provided herein, if a building permit has not been obtained within one year from the date of issuance of the zoning permit, said zoning permit shall expire and be cancelled by the Village Zoning Department.
 - 2. If the activity authorized by the zoning permit does not require a building permit (such as a change in use) such activity shall have been fully accomplished within one year of the date of issuance of said zoning permit or said permit shall expire.
 - 3. If a building permit is obtained and subsequently expires, then the zoning permit shall also expire on the same date as the building permit.
- J. **Temporary Zoning Permits**
 - 4. Applications for temporary zoning permits shall follow the same review procedure outlined for zoning permits above but shall be submitted at least seven days before the instigation of such temporary use.
 - 5. An application for a temporary zoning permit shall be made to the Village Zoning Department and shall contain a graphic description of the property to be used, a description of the proposed use, and a site plan, with sufficient information to determine the yard, setback, parking and sanitary facility requirements for the proposed temporary use.

1132.13 ZONING CERTIFICATE OF OCCUPANCY

- A. **Purpose**
 - A zoning certificate of occupancy shall be required in accordance with the provisions of this section in order to ensure that new construction and changes in tenants or uses comply with the provisions of this Ordinance.
- B. **Applicability and Review Procedure**
 - 1. It shall be unlawful for an owner to use or permit the use of any building or land or part thereof, hereafter created, changed converted or enlarged, wholly or partly, until a certificate of occupancy is issued.

2. The zoning certificate of occupancy shall show that such building or land or part thereof and the proposed use thereof are in conformity with the provisions of this Ordinance. It shall be the duty of the Village Zoning Department to issue a zoning certificate of occupancy, provided that he has checked and is satisfied that the building and the proposed use thereof conform to all the requirements of this Ordinance, and other Village regulations.
- C. Initiation
- Pursuant to Subsection 1132.03 (A), any person having authority to file applications may initiate an application for a zoning certificate of occupancy.
- D. Conditional Zoning Certificate of Occupancy
1. The Village Zoning Department may issue a conditional zoning certificate of occupancy for a specified period of time when a building or structure has been substantially completed so that its occupancy would not be hazardous or detrimental to the general welfare and when full compliance with all applicable codes, ordinances, and permits has not been achieved, provided there are extenuating circumstances beyond the applicants control which necessitate allowing such occupancy on a temporary basis. Delay of outside concrete work because of cold weather is an example of an extenuating circumstance.
 2. Where a conditional zoning certificate of occupancy is requested by an owner, the Village Zoning Department shall require that the owner and any other interested party, such as a tenant, shall sign a statement guaranteeing full completion of all Ordinance regulated items before expiration of the specified time and agreement to the cut-off of any or all utility services without recourse from the date of expiration of the conditional zoning certificate of occupancy until all work is satisfactorily completed.
- E. Zoning Certificate of Occupancy for Existing Buildings
- Upon written request from the owner, the Village Zoning Department shall issue a zoning certificate of occupancy for any building or land existing at the time of enactment of this Ordinance, certifying, after inspection, the extent and kind of use made of the building or land, and whether such use conforms with the provisions of this Ordinance.
- F. Zoning Certificate of Occupancy for Lawful Nonconforming Uses and Structures
1. A zoning certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created by this Ordinance.
 2. A fee as established in the Village's fee ordinance shall be charged for said certificate.
 3. Applications for zoning certificates of occupancy for nonconforming uses of land and buildings shall be filed with the building inspector by the owner of the land or building occupied by such nonconforming uses within six consecutive calendar months of the effective date of this Ordinance. Failure to apply for such certificate of occupancy will place upon the owner the entire burden of proof that such use of land or buildings lawfully existed on the effective date of this Ordinance.
 4. It shall be the duty of the Village Zoning Department to issue a certificate of occupancy for lawful nonconforming uses upon application and such certificate shall identify the extent to which the nonconforming use exists at the time of issuance of such certificate.

CHAPTER 1133: ZONING DISTRICTS AND USE REGULATIONS

1133.01 ESTABLISHMENT OF ZONING DISTRICTS

The zoning districts listed in Table 1133-1 are hereby established for the Village of Batavia.

Table 1133-1: Zoning Districts	
District Designation	District Name
Residential Districts	
E-R	Estate Residential District
R-1	Residential One District
R-2	Residential Two District
Business Districts	
B1	Village Business District
B2	General Business District
IO	Industrial-Office District
Planned Unit Development Districts	
PUD	Planned Unit Development District
Overlay Districts	
MSOD	Main Street Overlay District

1133.02 ADOPTION OF ZONING MAP

- A. The boundaries of the established zoning districts are indicated upon the “Official Zoning Map of the Village of Batavia, Ohio,” hereafter referred to as the zoning map.
- B. This zoning map is hereby made a part of this Ordinance and all the quotations, references, and other matters shown thereon, shall be as much a part of this Ordinance as if the notations, references and other matters set forth by said map were all fully described herein.
- C. The zoning map is properly attested to and is on file in the offices of the Village Zoning Department.
- D. Nothing in this chapter or Ordinance shall be construed to require the actual location of any district on the zoning map, as it is the intent of this Ordinance to provide the flexibility in its administration to allow for future expansion and amendment.

1133.03 REPLACEMENT OF THE OFFICIAL ZONING MAP

In the event that the official zoning map becomes damaged, destroyed, lost, or replacement is deemed necessary due to the age of the map or major corrections, the Village council may request the preparation of a new official zoning map and may adopt such new map as the official zoning map to supersede the prior official zoning map. However, no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereto without going through the proper review procedure established in Section 1132.04 (Zoning Amendments).

1133.04 DISTRICT BOUNDARIES

- A. The boundaries of the districts are established as shown on the zoning map.
- B. The rules for interpretation of the zoning district boundaries are as follows:
 - 1. Boundaries indicated as approximately following the rights-of-way of a street, railroad, or other public way shall be construed to follow such rights-of-way.
 - 2. Boundaries indicated as approximately following platted lot lines or a political boundary shall be construed to follow such lot lines or political boundary.
 - 3. Boundaries indicated as approximately following the centerlines of streets, streams, rivers, ditches, gullies, ravines, or other bodies of water, shall be construed to follow such centerlines.
 - 4. Boundaries that do not follow the above rules shall be determined by the scale of the map.
 - 5. New district lines or rezoning lines shall follow parcel lines to the maximum extent feasible.
- C. Questions concerning the exact location of zoning district boundary lines shall be determined by the BZA at a regular public meeting.

1133.07 REFERENCE TO PREVIOUS ZONING DISTRICTS

Some district classification and names established within this Ordinance differ from previous versions of this Ordinance. In instances where there may be references to the previous zoning district nomenclature, Table 1133- 2 identifies how each of the previous district classifications was renamed for this Ordinance. This section shall be used for comparison purposes only.

Table 1133-2: References to Previous Zoning Districts	
Zoning District Prior to the Effective Date of this Ordinance	Zoning District as of the Effective Date of this Ordinance [1]
Public Facility	PUD
[1] Unless the zoning of the subject property was amended after the effective date of the ordinance.	

1133.08 VACATION OF PUBLIC WAYS

Whenever any street, alley, or other public way is vacated by official action of Village council, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included shall be required to conform with the regulations of the extend districts.

1133.09 COMPLIANCE WITH DISTRICT STANDARDS

No development shall occur except in accordance with the zoning district regulations of this chapter, the site development standards of Chapter 1132, and all other applicable regulations of this Ordinance.

1133.10 RESIDENTIAL DISTRICTS

A. District Purpose Statements

The residential districts are created for the following specific purposes:

1. E-R Estate Residential District

The purpose of the E-R Estate Residential District is to accommodate large lot, single-family detached residential development with the Village of Batavia at a low density, not to exceed one dwelling unit per gross residential acre.

2. R-1 Suburban Residential District

The purpose of the R-1 Suburban Residential District is to provide for single-family detached residential development at a medium density.

3. R-2 Village Residential District

The purpose of the R-2 Village Residential District is to provide for single-family detached and multi-family residential development at a higher density.

B. Table of Allowed Uses

Table 1133-3 lists the uses allowed within all residential zoning districts. Each of the listed uses is defined in Chapter 1142: Rules of Construction, Interpretation, and Definitions. The following paragraphs provide an explanation of abbreviations and column headings in the permitted use tables.

1. Permitted Uses (P)

A “P” in a cell indicates that a use is permitted by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Ordinance, including the use-specific standards set forth in this chapter and the development standards of Chapters 1134 through 1141.

2. Permitted Uses with Conditions (P*)

A “P*” in a cell indicates that a use category is allowed by-right in the respective zoning district if it meets the additional standards set forth in the numerically reference sections. Permitted uses with conditions are subject to all other applicable regulations of this Ordinance, including the development standards of Chapters 1134 through 1141. Uses permitted with conditions under this category are approved administratively by the Village Zoning Department.

3. Conditional Uses (C)

A “C” in a cell indicates that, in the respective zoning district, a use is permitted if reviewed and approved as a conditional use pursuant to Section 1132.07 (Conditional Use Review). Conditional uses are subject to all other applicable regulations of this Ordinance, including the use-specific standards set forth in this chapter and the development standards of Chapters 1134 through 1141.

4. Prohibited Uses (Shaded Cells)

A shaded cell indicates that the listed use is prohibited in the respective zoning district.

5. Additional Regulations

Regardless of whether a use is permitted by-right or permitted as a conditional use, there may be additional regulations that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of applicable use table. These standards apply in all districts unless otherwise specified.

6. Unlisted Uses

If an application is submitted for a use that is not listed in the applicable use table, the director of the Village Zoning Department is authorized to classify the new or unlisted use into an existing land use category that most closely fits the new or unlisted use. If no similar use determination can be made, the director of the Village Zoning Department shall refer the use to Village council who may initiate an amendment to the text of this Ordinance to clarify where and how the use should be permitted. However, until such time as a new or unlisted use is reclassified, the said use is not permitted (Unless specifically permitted the use is not permitted).

Table 1133-3: Permitted Uses in Residential Districts

P = Permitted P* = Permitted with Conditions C = Conditional Use				
Use	E-R	R-1	R-2	Additional Regulations/Conditions
Agricultural Uses				
Raising of Crops	P*			Requires 5 acres or more
Raising of Livestock	P*			Requires 5 acres or more
Residential Uses				
Adult Family Homes	P	P	P	
Adult Group Homes			C	
Group Homes			C	
Multi-Family Dwellings			C	
Single-Family Dwellings	P	P	P	
Two-Family Dwellings		P	P	
Accessory Dwelling Unit	P*	P*	P*	See Accessory dwelling units
Commercial/Office Uses				
Bed and Breakfast Establishments	C	C	C	1133.13 (B)(3)
Funeral Homes	C	C	C	
Nursing Homes and Assisted Living Facilities	C	C	C	1133.13 (B)(6)
Short-Term Rental	P*	P*	P*	1133.13 (B)(11)
Type A Family Day Care	C	C	C	
Type B Family Day Care	P	P	P	
Public and Institutional Uses				
Active Park and Recreational Facilities	C	C	C	
Cemeteries	C	C	C	
Educational Facilities	C	C	C	
Government Offices and Uses	C	C	C	
Religious Places of Worship	C	C	C	
Safety Service Facilities	C	C	C	
Telecommunication Co-locations	C	C	C	1133.13 (D)(1)
Public and Institutional Uses (Any Size Lot)				
Passive Parks, Open Space, and Conservation Areas	P	P	P	
* All uses in the Residential Districts are subject to additional regulations per 1133.13(A)				

1133.11 BUSINESS DISTRICTS

A. District Purpose Statements

The business districts are created for the following specific purposes:

1. B1 Village Business District

The purpose of the B1 Village Business District is to accommodate and encourage the further expansion and renewal of the business area of Batavia. A variety of business, institutional, public, quasi-public, cultural, residential, and other related uses are encouraged in a planned and coordinated fashion in an effort to provide the mix of activities necessary to establish a truly vital, urban environment.

2. B2 General Business District

The purpose of the B2 General business District is to provide for a wide range of retail and service commercial uses that relate to the varied needs of residential, businesses and visitors. The uses of this district rely heavily on vehicular traffic and thus are appropriately located on arterial roadways.

3. IO Industrial-Office District

The purpose of the IO Industrial-Office District is:

- a. To provide places for business and industries engaged in low intensity operations that manufacture, process or store products for distribution or sale, whose operations are within buildings and clean, quiet and free from objectionable or dangerous nuisance or hazard off site, but often involve materials, processes, machines or equipment which would interfere with pedestrian accessibility to stores if located in a business district; and would be detrimental if located in a less intensive district;
- b. To provide, through conditional use review, places for business and industries engaged in more intensive operations which manufacture, process or store products for distribution or sale; whose operations often require outdoor storage or business operations, and would be detrimental if located in a less intensive district due to generation of noise, odor, vibration, after hours activities, or traffic impacts well beyond the subject property lines.
- c. To provide places for businesses which frequently use large trucks or heavy equipment, need space for outdoor storage or business operations; serve a large market area; and often create noise which would be objectionable to less intensive uses; The IO District shall provide open space, landscaping, and buffering in order to achieve desirable site development.

CHAPTER 1133: ZONING DISTRICTS AND USE REGULATIONS

B. Table of Allowed Uses

Table 1133-4 below lists the uses allowed within all business zoning districts. Each of the listed uses is defined in Chapter 1142: Rules of Construction, Interpretation, and Definitions. Subsections 1133.10 (B)(1) through (B)(6) provide an explanation of abbreviations and column headings.

Table 1133-4: Permitted Uses in Business Districts				
P = Permitted P* = Permitted with Conditions C = Conditional Use				
Use	B2	B1	IO	Additional Regulations/Conditions
Agricultural Uses				
Raising of Crops & Livestock	P*	P*	P*	On greater than 5 acres of land
Residential Uses				
Multi-Family Dwellings		P		Above 1 st floor Only
Single-Family Dwellings		P		Above 1 st floor Only
Two-Family Dwellings		P		Above 1 st floor Only
Commercial/Office Uses				
Adult Entertainment Facilities			P*	1133.13 (B)(1)
Automotive Service and Repair (Indoor)	P*		P*	1133.13 (B)(2)
Automotive Washes	P			
Banquet Halls	P	P	P	
Bars and Taverns	P	P		
Brewpubs	P	P	P*	
Clinics	P	P		
Commercial Kennels or Animal Shelters	P*		P*	1133.13 (B)(6)
Day Care Centers	P*	P*		1133.13 (B)(4)
Drive-Through Facility	P*		P	1133.13 (B)(5)
Financial Institutions	P	P		
Financial Institutions, with Drive-Through Facility	P*	C		
Fuel Services	P*		P*	1133.13 (B)(2)
Funeral Homes	P	P		
Hotels and Motels	P	P	P	
Indoor Recreational or Entertainment Facilities	P	P	P	
Medical Marijuana Dispensary	C*			1133.13 (B)(12)
Microbreweries, Microdistilleries or Microwineries	P	P	P	
Nursing Homes and Assisted Living Facilities	P*			1133.13 (B)(7)
Offices and Professional Services	P	P	P	
Parking Lots or Garages	C	C	C	

CHAPTER 1133: ZONING DISTRICTS AND USE REGULATIONS

Table 1133-4: Permitted Uses in Business Districts

P = Permitted P* = Permitted with Conditions C = Conditional Use				
Use	B2	B1	IO	Additional Regulations/Conditions
Personal Service Establishments	P	P	P*	1133.13 (B)(8)
Research Facilities or Laboratories			P	
Restaurants	P	P	P*	1133.13 (B)(9)
Retail and Service Commercial Uses	P	P	P*	1133.13 (B)(10)
Social Clubs and Fraternal Organizations	P	P		
Theaters	P	P		
Short-Term Rental		P*		1133.13 (B)(11)
Vehicle Sales or Rental	P			
Veterinarian Clinics	P		P	
Wholesale Commercial Uses	P		P	
Industrial Uses				
Automotive Body Repair	C		P	1133.13 (B)(2)
Heavy Industrial Uses			P*	
Industrial Vehicle and Equipment Sales or Service			P	
Industrial-Office Uses			P	
Self-Storage Facilities			P*	1133.13 (C)(1)
Vehicle Salvage Yards			C	
Warehouses			P	
Public and Institutional Uses (Any Size Lot)				
Active Park and Recreational Facilities	P	P	P	
Educational Facilities	C			
Government Offices and Uses	P	P	P	
Higher Educational Facilities	P			
Libraries or Cultural Centers	P	P		
Passive Parks, Open Space, and Conservation Areas	P	P	P	
Religious Places of Worship	P	P		
Safety Service Facilities	P	P	P	
Telecommunication Co-location	C	C	C	1133.13 (D)(1)
Telecommunication Towers			C	
** All uses in the Innovations District are subject to additional regulations per 1133.14(D)				

1133.12 Planned Unit Development (PUD)

A. PUD Planned Unit Development District

1. Purpose

The purpose of the PUD Planned Unit Development District is to:

- a. Promote flexibility in design and permit planned diversification in the relationships between location of and types of uses and structures;
- b. Promote the advantages of modern, large-scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities;
- c. Preserve, to the maximum extent feasible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion; and
- d. Provide for more useable and suitably located recreation facilities and other public facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

2. Existing Planned Unit Developments

- a. Any planned development approved prior to the effective date of this Ordinance shall continue in accordance with the approved site plans.
- b. The deadlines established in Section 1130.07 (Transitional Rules) shall apply to all approved plans.
- c. Modifications, amendments, and expansion of existing planned developments shall be in accordance with Section 1132.05 (Zoning Map Amendments).

3. PUD Review Procedure

All PUDs shall be reviewed as a zoning map amendment pursuant to Section 1132.05 (Zoning Map Amendments).

4. Permitted Uses

Uses permitted within any PUD shall be established in this section. In all cases, the actual uses proposed in the individual PUD shall be specified in a Schedule of Uses, submitted with the Concept Plan and adopted as part of the approved PUD Ordinance.

- a. Residential
 - i. The Schedule of Uses and development standards permitted within a specific Residential PUD shall be established during the review process.
- b. Business, Mixed-Use, and Traditional Neighborhood Development PUDs
 - i. The Schedule of Uses and development standards permitted within a specific Business, Mixed Use PUD shall be established during the review process.

5. Common Open Space Requirement

- a. At least 15 percent of the total project area of all PUDs shall be retained as common open space and shall be subject to the standards of Section 1135.15 (Open Space Standards).
- b. Business PUDs that do not include any residential uses shall be exempt from the common open space requirement.

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6. Business PUD Standard

- a. All development within a business PUD shall comply with the standards established within this section unless otherwise expressly stated, or unless a different standard is permitted as part of the PUD approval process.
- b. Open spaces between buildings, which create courtyards or walkways to the rear of the property or parking areas, are strongly encouraged.
- c. Principal buildings shall be setback a minimum of 10 feet from any boundary of the Planned Unit Development that adjoins a residential district.
- d. Principal buildings shall be setback a minimum of 20 feet from the right-of-way, unless otherwise required in this subsection.

7. Mixed-Use PUD Standards

- a. All development within a mixed-use PUD shall comply with the standards established within this section unless otherwise expressly stated, or unless a different standard is permitted as part of the PUD approval process.
- b. Open spaces between buildings, which create courtyards or walkways to the rear of the property or parking areas, are strongly encouraged.
- c. Buildings and parking areas shall be setback a minimum of 15 feet from the right-of-way. Sidewalks may be located in this setback.

1133.13 USE SPECIFIC REGULATIONS

The following are use-specific regulations that may apply to specific uses in accordance with Tables 1133-3, 1133- 4, and 1133-7 and include conditions.

A. Residential Uses

1. Residential Requirements

- a. Vinyl siding shall be maintained in a similar condition as when it was installed. Siding shall be cleaned, painted, or replaced when deterioration, fading, or cracking occurs.
- b. Any concrete that is exposed more than 1.5 feet shall be covered with the brick/stone or fiber cement siding utilized on the main structure and/or, when applicable, grade adjustments or retaining walls may be utilized. This provision shall not affect any necessary grading to achieve positive drainage.
- c. Garages and out buildings shall maintain a consistent level of architectural styling and detail as used on the principal dwelling, blending the garage door into the façade. Interior garage walls and ceiling must be finished with drywall, bead board, or other acceptable material and painted. All ducts, pipes and wiring in garages must be concealed from view.
- d. Double frontage lots are not permitted.
- e. Subdivision entrances shall contain a mix of masonry features such as an entrance sign, columns with decorative fencing, walls, and/or other large-scale design features. Planning Commission has the authority to approve design features during Preliminary Plan review.
- f. Developments may provide parks to serve as community gathering spaces and focal points. There shall be an interconnected network of open space that reinforces strong pedestrian and bikeway connections.
- g. Developments occurring along any identified Village trailway shall construct and dedicate a ten feet wide bike trail from one side of the development to the other to connect existing or planned trail networks.

B. Commercial/Office Uses

1. Adult Entertainment Facilities

In addition to the applicable provisions of this chapter, adult entertainment facilities shall comply with the following:

- a. No adult entertainment facility shall be established within 1,000 feet of any area zoned for residential use.
- b. No adult entertainment facility shall be established within a radius from 1,000 feet of any school, library or educational facility, whether public or private, governmental or commercial, if attended by persons under 18 years of age.
- c. No adult entertainment facility shall be established within a radius from 1,000 feet of any religious place of worship attended by persons under the age of 18 years of age.
- d. All building openings, entries, windows, and the like for adult entertainment facilities shall be located or covered in such a manner as to prevent a view into the interior from any public area, sidewalk, or street.

- e. No screens, loudspeakers, or sound equipment shall be used for any adult drive-in theater or adult motion picture theater that can be seen or discerned by the public from any public area, street, or sidewalk.

2. Automotive Service and Repair (Indoor), Automotive Body Repair, and Fuel Services

In addition to the applicable provisions of this chapter, automotive service and repair facilities, automotive body repair, and fuel services shall comply with the following.

- a. Automotive fuel services, automotive body repair, automotive repair and service facilities that are located on a corner lot shall have a minimum of 100 feet frontage on each street;
- b. Fuel pumps and related driveways and paved areas shall be erected in the side or rear yard not less than 30 feet from an existing or proposed street right of way.
- c. A canopy may be constructed over the pump island, provided that the canopy shall extend no closer than 20 feet from an existing or planned right of way.
- d. If repair or service activities are performed on a vehicle, such vehicle shall be entirely within an enclosed building with garage doors facing the side or rear yard
- e. Parking facilities for repair, body, or service activities shall be located in the rear or side yard and shall be screen from the right-of-way.
- f. Outdoor sales, displays, and storage shall be in conformance with Section 1135.13 (Outdoor Sales, Displays, and Storage)

3. Bed and Breakfast Establishments

The use of a single-family dwelling for a bed and breakfast establishment shall comply with the following requirements:

- a. The owner of the premises used for the bed and breakfast establishment shall reside full-time in the dwelling, or in a dwelling on an adjoining lot.
- b. No more than five bedrooms in any dwelling may be used for bed and breakfast lodging and at least one bathroom shall be dedicated to guest use.
- c. A yearly permit shall be required once Conditional Use Approval is received. The yearly permit is required from the Village Zoning Department and is required to be on display at all times with owner contact information visible.
- d. One off-street parking space shall be provided for each bedroom used for guest lodging in addition to those normally required for the single-family dwelling.
- e. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the bed and breakfast establishment that will indicate from the exterior that the building is being utilized in part for any purpose other than a dwelling unit.
- f. Each bed and breakfast establishment shall be permitted to have one wall-mounted sign with a maximum sign area of four square feet and/or a free-standing ground sign with a maximum sign area of six square feet with a maximum height of five feet. Such signs shall not be illuminated. All signs shall be approved by the Planning Commission before installation.
- g. Meals provided for cost in a bed and breakfast establishment shall only be served to the guests who are lodging at the bed and breakfast establishment.

4. Day Care Centers

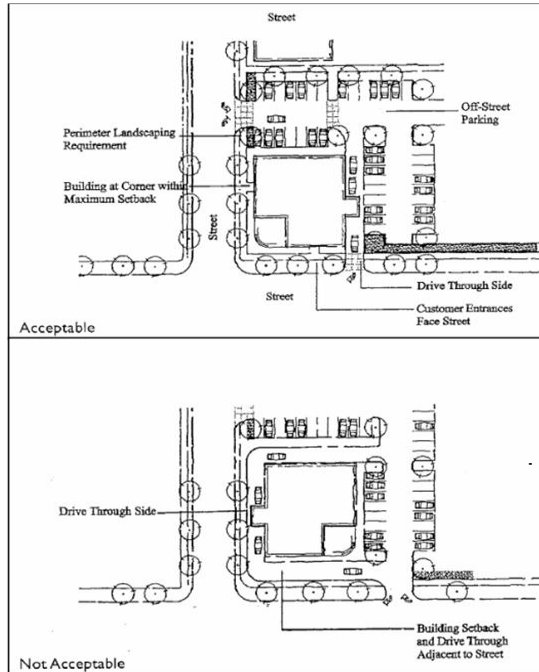
All day care centers shall meet the following standards:

- a. Outdoor play areas, tot lots, or activity centers designed to be used by children under eight years of age shall be fully enclosed by a fence subject to approval by the Planning Commission.
- b. The parking and circulation plan shall include a drop-off/pick-up point for children.
- c. In residential districts, day care centers shall meet the minimum site development standards established in Chapter 1134: Site Development Standards.

5. Drive-through Facility

A drive-through facility shall be designed and located to minimize visual, traffic and noise impacts on neighboring development. In addition to the applicable provisions of this chapter, any and all drive-through facilities shall comply with the following:

Figure 1: *The site layout illustrates acceptable and not acceptable drive-thru orientation and access configuration.*



- a. All drive-through facilities shall comply with the stacking space requirements as provided in Ch. 1137.09.
- b. All drive-through facilities (e.g., queuing areas, windows, teller machines, service windows, kiosks, drop-boxes, or similar facilities) shall comply with the site development standards as required under Ch. 1134 and shall not be oriented to a street corner.
- c. The drive-through facility shall be oriented to face an alley, driveway, or interior parking area, and not a street if possible. See Figure 1.
- d. Drive-through facility queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way.
- e. The drive access, entry and/or exit, shall be a minimum of 50 feet from any street intersection. A traffic study addressing both on-site and off-site traffic and circulation impacts may be required.

- f. The architectural design of drive-through facilities shall comply with Ch.1136 and 1140 as required.

In addition to the applicable provisions of this chapter, the following regulations shall apply to any and all drive-through facilities adjacent to a residential use or district:

- a. Audible communication devices shall be a minimum of 50 feet from an adjacent residential use or district and/or a suitable acoustical barrier erected.
- b. Drive-through shall be located on the site to maximize the distance from residential uses or districts.
- c. Drive lanes designated for drive-through facilities shall not be located immediately adjacent to residential development.
- d. Drive-through facilities may only be operated between the hours of 7:00 a.m. and 9:00 p.m.

6. Commercial Kennels or Animal Shelters

In addition to the applicable provisions of this chapter, commercial kennels and animal shelters shall comply with the following:

- a. All structures and activities related to the subject kennel use shall be located a minimum distance of 100 feet from side and rear property lines, except that when located adjacent to a residential district, the following additional restrictions shall apply:
- b. All non-soundproofed structures or area where animals are confined shall be located a minimum distance of 500 feet from any residential district.
- c. Soundproofed, air-conditioned buildings shall be located a minimum distance of 100 feet from any residential district.
- d. All non-soundproofed structures for the confinement of animals shall be screened by a solid fence or wall a minimum of six feet in height located within 50 feet of the structure.
- e. Animals shall be confined in an enclosed building between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
- f. There shall be no burial or incineration of animals on the premises.

7. Nursing Homes and Assisted Living Facilities

Nursing homes and assisted living facilities may be permitted, provided that:

- a. The minimum lot area shall be two acres.
- b. All structures and activities shall be setback a minimum of 25 feet from all lot lines.
- c. The density shall not exceed 15 patient rooms per acre.

8. Personal Services

Personal service establishments may be permitted in the PO or IO Districts when the facility is within the principal structure and occupies no more than ten percent of the gross floor area of the principal structure.

9. Restaurants

Restaurants may be permitted in the IO Districts when the facility is within the principal structure and occupies no more than ten percent of the gross floor area of the principal structure.

10. Retail Commercial Uses

Retail commercial uses may be permitted in the IO Districts when the facility is within the principal structure and occupies no more than ten percent of the gross floor area of the

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principal structure.

11. Medical Marijuana Dispensary

Medical marijuana dispensaries are prohibited in the village by Ordinance 1376-17 adopted 11/14, 2017.

C. Industrial Uses

1. Self-Storage Facilities

In addition to the applicable provisions of this chapter, self-service storage facilities shall comply with the following.

- a. All items shall be stored within the building.
- b. Buildings shall not exceed one story, with a maximum height of 22 feet.
- c. No door shall exceed 18 feet in either height or width.
- d. Loading and unloading of storage units shall be oriented towards the side and rear lot lines.
- e. Self-service storage facilities shall not be permitted on corner lots.
- f. Self-storage facilities shall only be permitted behind non-storage frontage buildings containing offices or related uses.

2. Self-Storage Design Requirements

- a. Unfinished or unpainted non-decorative concrete block shall not be used on any exterior wall. Metal siding shall not be used on any wall facing a public street. If metal siding is utilized on any remaining wall, it shall be subject to the approval of the Village Zoning Department or Planning Commission.
- b. Buildings shall be clad with a mix of materials that convey an appearance of quality. The front façade of the building shall be covered by at least 75% brick, masonry, glass, or other suitable building materials. The facade shall be decorative and shall have distinctive elements such as clear windows, rooflines, cornices, doors, trim and finishing that suggest commercial use rather than storage. Frontage shall be subdivided and proportioned using features such as windows, entrances, arcades, arbors, awnings, along no less than fifty percent of the facade. Colors shall be muted.
- c. Primary building entrances shall be clearly identifiable. They may be recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter.
- d. The surfaces of the storage facility that face residential uses shall be designed as to suggest commercial use rather than storage, and shall provide a varied and interesting façade such as setbacks, building placement, variations in building walls, fencing, other structural elements and landscaping.
- e. Allowed cladding materials include: (1) high grade metal composite panels with a durable, factory-applied finish, provided that colors or textures are varied to prevent a monolithic appearance; (2) brick, brick veneer, stone, simulated stone, or stucco; (3) cement fiberboard; (4) concrete masonry units ("CMUs") with integrated color, provided that the outer surface of the CMUs is either split face or ground face.
- f. Prohibited cladding materials include: (1) un-backed, non-composite sheet metal products (e.g., standing seam metal or flat panels that may easily dent); (2) smooth face CMUs that are painted or unfinished; or (3) unfinished wood.

D. Public and Institutional Uses

1. Telecommunication Co-locations

- a. The co-location of telecommunications antennas operated for commercial purpose may be added to existing telecommunication towers, including towers used exclusive for government use, water towers, silos, steeples, or other structures that can be used to mitigate the visual impact of telecommunications antennae or the functional equivalent of such facilities, including, but not limited to, all accessories related to the

facilities such as guy wires, equipment sheds, parking, fencing and/or other structures associated with the telecommunications.

- b. Telecommunication co-locations that do not increase the height and/or area at the base of an existing structure or tower shall be subject to administrative approval as outlined in subsection 1132.06(E)(1)(c). All other co-locations shall be subject to conditional use approval as outlined in subsection 1132.07.
- c. Telecommunication co-locations attached to structures other than existing telecommunication towers shall have a maximum height equal to 20 feet more than the maximum height for permitted principal structures in the applicable zoning district.
- d. Abandoned telecommunication co-locations, including all related equipment, shall be removed within 180 days after use has permanently ceased or is abandoned as outlined in subsection 1133.14 (D)(2)(e).
- e. Structural sufficiency of telecommunication co-locations shall be subject to the same standards outlined in 1133.14 (D)(2)(d).

2. Telecommunication Towers

- a. Commercial radio and television towers and telecommunication towers permitted in Table 1133-4 shall be located centrally on a continuous parcel having a dimension at least equal to the height of the tower measured from the center of the base of the tower to all points on each property line.
- b. All accessories related to the tower including, but not limited to, guy wires, equipment sheds, parking, and fencing shall all be located on the same lot as the tower.
- c. Towers shall be setback a minimum of 500 feet from any off-site dwelling unless a reduced setback is approved by the Planning Commission as part of the conditional use review of the tower.
- d. Structural sufficiency of a telecommunications tower or other support structure shall be certified by an Engineer licensed in the State of Ohio. To ensure structural integrity and the health and safety of the public, at the minimum, telecommunication tower inspections shall take place as follows:
 - i. Mono-pole towers every ten (10) years; lattice towers every five (5) years; guy-wire cable secured towers every three (3) years.
 - ii. Inspections are the sole responsibility of the tower operator of record and shall be performed by an individual or company that is a member of the National Association of Tower Erectors. Results of inspections shall be provided in writing to the Village Zoning Department and based upon the results; the Village of Batavia may require the repair or removal of a telecommunication tower.
- e. The property owner, tower owner and/or any successor or assign shall be required to notify the Village of Batavia of the intent to abandon the tower and all related equipment in writing. The Village of Batavia will issue a certified mail notice to the property owner to verify the use has permanently ceased or is abandoned. Abandoned towers, including all related equipment and structures, shall be removed within 180 days after verification is confirmed the use has permanently ceased or is abandoned.

E. Modification

The Planning Commission may modify any of the requirements listed in Chapter 1133.13 Use-Specific Regulations during the site plan review process and approve a submitted design upon findings that the request will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Chapter would detract from the stated purpose of this Chapter. A request for a modification shall be submitted to the Planning Commission and shall be heard at a regularly scheduled Planning Commission meeting. The Planning Commission shall decide the issue within a reasonable time after the meeting. In evaluating a request for a modification, the Planning Commission shall include, but not be limited to, the following criteria:

- a. The specific condition(s) which are unique to the applicants use;
- b. The manner in which strict application of this Chapter would deprive the applicant a reasonable use of the land in a manner equivalent to the use permitted other landowners in the same zone;
- c. The unique conditions and circumstances are not self-created after the adoption of this Chapter;
- d. Reasons that the variance shall preserve, not harm the public safety and welfare, and shall not alter the essential character of the neighborhood; and
- e. The fact that the agreed upon Use-Specific alternative substantially complies with the terms of this chapter.

1133.14 OVERLAY DISTRICTS

B. Relationship of Overlay Zoning Districts

Where land is classified into an overlay district as well as a base-zoning district, the regulations governing development in the overlay district shall apply in addition to the regulations governing the underlying base-zoning district. In the event of an express conflict between the standards of the overlay zoning district and the base-zoning district, the standards governing the overlay district shall control.

C. Main Street Overlay (MSOD) District

1. Purpose and Intent

- a. In order to promote the economic and general welfare of the people of the Village of Batavia, Ohio, and of the public generally, and to insure the harmonious, orderly, and efficient growth and development of the municipality, it is deemed essential that quality relating to the history of the Village of Batavia and the outward appearance of structures which preserve property values and attract tourists and residents alike be preserved. These qualities included, but are not limited to:
 - i. The continued existences and preservation of historic areas and buildings;
 - ii. Continued construction of buildings in historic styles and a general harmony as to style, form, proportion, texture, and material between buildings of historic designs and those of a more modern design; and
 - iii. That such purposes are advanced through the preservation and protection of the old historic buildings, architecturally worthy structures, and quaint neighborhoods which impart a distinct aspect to the Village of Batavia and which serve as visible reminders of the historical and cultural heritage of the Village of Batavia, the state, and the nation.
- b. It is the intent of this district, and the design guidelines that apply to this district, to promote and protect the public health, safety, and general welfare, through the preservation and encouragement of varied architectural styles within the Village,

reflecting the distinct phases of the Village's history. In addition, this district is intended to maintain and enhance the scale and basic character of the historic districts and neighborhoods through:

- i. Insuring compatibility between new, renovated, and old structures;
 - ii. Promoting the improvement and upgrading of properties in a manner which will benefit property in the area;
 - iii. Improving and promoting amenities for pedestrians;
 - iv. Encouraging the development of vacant land areas of incompatible development in accordance with the character of the area; and
 - v. Providing for the widest possible scope of continuing vitality through private renovation and architectural creativity, within appropriate controls and standards.
 - c. It is the intent of this district, and the design guidelines that apply to this district to protect, enhance, perpetuate, structure, sites, and areas that are reminders of past eras, events, and persons important in local, state, or national history, or which provide for this and future generation, examples, of the physical surroundings in which past generations lived.
 - d. It is the intent of this district, and the design guidelines that apply to this district to enhance the economic, recreational, cultural, and educational development of the Village by:
 - i. Stimulating business and attracting industry;
 - ii. Protecting and enhancing attractions to residents, tourists, and visitors;
 - iii. Maintaining a high character of community development;
 - iv. Preserving, protecting, and improving the value, appearance, and use of property;
 - v. Improving the quality of life by enhancing the visual and aesthetic character, diversity, and interest of the Village of Batavia; and
 - vi. Promoting the use and preservation of the historical locations, architecturally significant structures, and other notable objects and sites for the educational enrichment and general welfare of the people of the Village of Batavia and the State of Ohio.
2. Applicability
- a. For the purposes of this establishing regulations for this district, the MSOD District is as follows:
 - i. The Village Business District Subarea
 - b. A map of the subarea is located on the zoning map

1133.15 ACCESSORY USES

A. Purpose

This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. An accessory use is "incidental and customarily subordinate" to a principal use if it complies with the standards set for in this section.

B. General Accessory Use and Structure Standards

Accessory uses or structures shall be permitted provided:

1. The building or use is incidental to and customarily found in connection with a principal building or use permitted in the district in which is located;
2. It is subordinate to and serves the principal building or use;
3. It is subordinate in size, area, extent, and purpose to the principal building or use;
4. It is located on the same lot as the principal use for which it serves;
5. An owner applies for and receives a zoning permit unless exempted by this section;
6. The maximum height of an accessory detached garage shall be 20 feet in overall height;
7. Accessory structures that are used to house vehicles shall be located so access can be made to the accessory structure over a paved surface such as a driveway.
8. The maximum height of any other accessory use or building shall be 15 feet in overall height;
9. Unless permitted by the Planning Commission and Village council in a PUD approval or site plan approval, accessory uses and structures shall be prohibited in any open space area that is preserved by covenant including, but not limited to, open spaces in any planned unit development or open space subdivisions;
10. Unless otherwise permitted in this section, accessory uses shall not be permitted within any required minimum front yard or side yard in any zone unless identified below; and
11. Accessory uses may be permitted to extend into the minimum rear yard provided that such use or structure are set back a minimum of ten feet from the rear and side lot lines. Accessory uses within the Residential suburban District (R2) and Village Residential (R1) may be permitted a minimum of five feet from the rear and side lot lines.
12. Accessory uses in the Village Business are permitted to extend up to the side and rear lot line subject to Planning Commission review and approval. Accessory uses less than 200 square feet are permitted subject to Village Zoning Department review and approval.
13. Accessory uses and associated impervious surfaces shall not exceed 80 percent of the rear yard.
14. Exterior building materials shall be durable, of the same, or higher, quality as surrounding developments, and shall not adversely impact adjacent uses.

C. Table of Allowed Accessory Uses

Table 1133-7 lists the accessory building and uses allowed within all zoning districts. The following is an explanation of the abbreviations and columns in Table 1133-7.

1. Permitted Uses (P)

A "P" in a cell indicates that an accessory building or use is permitted by-right in the respective zoning district. Permitted accessory uses are subject to all other applicable regulations of this Ordinance, including the use-specific standards set forth in this Chapter.

2. Conditional Uses (C)

A "C" in a cell indicates that, in the respective zoning district, an accessory building or use is permitted if reviewed and approved as a conditional use pursuant to Section 1132.06 (Conditional Use). Conditional Uses are subject to subject to all other applicable regulations of this Ordinance, including the use-specific standards set forth in this Chapter.

3. Permitted Uses with Conditions (P*)

A (P*) in a cell indicates the use is permitted with conditions. Conditions may be listed by section number or listed in the conditions field. Conditions may also be set by the Planning and Zoning Commission.

4. Prohibited Uses (Shaded Cells)

A shaded cell indicates that the listed accessory building or use is prohibited in the respective zoning district.

5. Zoning Permit Required

The “Zoning Permit Required” column identifies if a Zoning Permit is required for the applicable accessory building or use.

6. Yard Permitted

The “Yards Permitted” column identifies what yards the applicable accessory building or use is permitted in unless otherwise exempted.

7. Additional Regulations

Regardless of whether an accessory building or use is permitted by-right or permitted as a conditional use, there may be additional regulations that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of Table 1133-7. These standards apply in all districts unless otherwise specified.

Table 1133-7: Accessory Uses

Uses P = Permitted P* = Permitted with Conditions C = Conditional	E-R	R-1 and R-2	B2	B1	IO	Zoning Permit Required	Yards Permitted F= Front S = Side R = Rear	Additional Regulations
Accessory Dwelling Units	P*	P*	P*	P*		Yes	R	1133.15 (E)(1)
Automated Teller Machines (ATMS) – Stand Alone			P	P	P	Yes	F, S, or R	
Detached Accessory Garages or Buildings	P	P	P	P	P**	Yes	R,S**	
Basketball Hoops	P	P				No	F, S, or R	1133.15 (E)(2)
Chickens – Coops and Accessory Uses	P*	P*				Yes	R	1133.15 (E)12
Contractor Yards or Bulk Outdoor Storage or Sales			P*		P*	Yes	R	1135.13
Dining Areas and or Accessory Restaurants					P*	No	In principal building	1133.15 (E)(3)
Equine Animals in Residential Areas	P*					No	F, S, or R	1133.15 (E)(4)
Fences	P	P	P	P	P	Yes	See Section 1135.14 (Fencing)	
Home Occupations	P*	P*				Yes	In principal building	1133.15 (E)(5)
Porches or Decks	P*	P*	P*	P*		Yes	F, S, or R	1133.15 (E)(6)
Ramps	P	P	P	P	P	No	F, S, or R	1133.15 (E)(7)
Roadside Stands						Yes	F, S, or R	1133.15 (E)(8)
Satellite Dishes	P	P	P	P	P	No	S or R	1133.15 (E)(9)
Swimming Pools (Outdoor)	P	P				Yes	R	1133.15 (E)(10)
Swing or Gym Sets	P	P				No	R	
Tennis Courts or Other Ball Courts	P	P				No	R	
Unenclosed Patios	P	P	P	P		No	F, S, or R	
Solar Energy	C	C	C	C	C	Yes	R	1133.15(E)(11)
Other Accessory Uses	C	C	C	C	C	As determined by the planning commission		

**Detached Accessory Garages or Buildings: Subject to administrative review and approval – Planning Commission review and approval may be required if determined by the Village Zoning Department. *Chickens – Coops are not permitted in Business Districts B1, B2, IO

D. Exceptions to the Location of Accessory Uses

1. Exemptions

For accessory buildings and uses that may only be permitted in the rear yard pursuant to Table 1133-7, the following exemptions shall apply:

- a. On a corner lot, accessory buildings and uses may be located in the side yard as illustrated in Section 1134.01 (D).
- b. On a double frontage lot, accessory buildings may be located in the front yard located to the rear of the principal structure as illustrated in Section 1134.01 (D).
- c. Accessory uses in the Industrial Districts are permitted in the side yard subject to Village Zoning Department review and approval.

2. Attached Versus Detached Accessory Buildings

- a. Typical accessory uses, such as a private garage, that are an integral part of a principal building and not separated by a porch, walkway, breezeway, or other similar structure shall not be subject to the provisions of this section on accessory uses. Such uses shall be considered part of the principal building and shall be subject to the site development standards of the applicable zoning district.

E. Accessory Use-Specific Standards

1. Accessory Dwelling Units

- a. An accessory dwelling unit shall only be permitted when attached to the principal structure or contained in another unattached accessory structure.
- b. Mobile homes, recreational vehicles, and travel trailers shall not be used as accessory dwelling units.
- c. The gross floor area associated with an accessory dwelling unit shall be at least 400 square feet, but shall not exceed 50 percent of the gross floor area of the principal dwelling unit, or 1000 square feet, whichever is less.
- d. There shall be no more than one accessory dwelling unit on a lot.
- e. At least one off-street parking space shall be provided for an accessory dwelling unit in addition to the required off-street parking serving the principal use, but in no instance shall more than two off-street parking spaces be provided with an accessory dwelling unit.
- f. Exterior building materials shall be durable, of the same, or higher, quality as surrounding developments, and shall not adversely impact adjacent uses. When the principal structure is predominately brick or stone, the introduction of smooth wood or fibrous cement siding is appropriate to reinforce the ancillary and subordinate nature of the accessory dwelling unit.
- g. Accessory dwelling units shall not be sold apart from the principal dwelling unit.
- h. Accessory dwelling units shall not be leased or rented.
- i. Home occupations shall be prohibited within an accessory dwelling unit.

2. Basketball Hoops

Basketball hoops shall be set back 15 feet from any street right-of-way.

3. Dining Areas or Restaurants

- a. Accessory dining areas or restaurants shall be restricted to ten percent of the gross floor area of the principal building.
- b. Accessory dining areas that are outdoors shall be subject to the applicable standards of outdoor sales, displays, and storage as defined in Section 1135.13 (Outdoor Sales, Display, and Storage).

4. Equine Animals in Residential Areas

Equine animals shall be considered as an accessory use to any single-family dwelling, subject to the following conditions and limitations:

- a. No equine animal shall be kept on a lot that is not occupied by a single-family dwelling except as permitted in subsection (b) below.
- b. An equine animal may be kept on a vacant lot provided the owner of such vacant lot lives on the lot contiguous to such vacant lot.
- c. The minimum area of any lot on which equine animals may be kept shall be three acres exclusive of road or street right-of-way. No more than three such animals may be kept on any lot, regardless of the size of the lot, unless otherwise approved as part of a PUD.
- d. The owner of the lot where an equine animal is kept must provide adequate fences, housing and other facilities for the animal.
- e. No stable or other building related to the keeping of equine animals shall be closer than 50 feet to any lot line or street right-of-way line.

5. Home Occupations

Home occupations shall include the use of the premises for services rendered other than by direct contact with customers at that location (for example, where the bulk of the business is by telephone - actual work is performed in home and the customer is contacted in other than that location). The following requirements shall apply to home occupations when permitted herein:

- a. No person other than members of the family residing in the premises shall be engaged in such operation.
- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than 25% of the gross floor area of any one floor of the dwelling unit (including the basement or cellar) shall be used in the conduct of the home occupation.
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling unit, except that a name plate as regulated by Chapter 1139 of this Ordinance, shall be permitted.
- d. There shall be no exterior storage of any materials on the premises associated with any home occupation.
- e. There shall be no commodity sold upon the premises in connection with such home occupation.
- f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
- g. No equipment or process which creates noise, vibration, flare, fumes, odors, or electrical interference detectable to the normal senses to persons not within the premises, shall be used in such home occupation. In the case of electrical interference, no equipment or process which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises, shall be used.

6. Porches and Decks

- a. Decks and porches shall meet all applicable safety and building codes.
- b. Decks and porches shall comply with applicable minimum height and yard requirements in accordance with Chapter 1134.03. Decks shall be permitted 15 feet from the rear property line if the rear of the property abuts at least 30 feet of HOA preserved greenspace or if the deck is no more than 30 inches above grade.
- c. Front porches shall not have the appearance of a deck and shall be comprised of materials to blend in with the front façade.

7. Ramps

Ramps shall comply with the Americans with Disabilities Act.

8. Roadside Stand

- a. Roadside stands shall only be permitted for the sale of products grown on the premises.
- b. Roadside stands shall be set back a minimum of 30 feet from the road right-of-way.
- c. Roadside stands shall not exceed 100 square feet in floor area.

9. Satellite Dishes

- a. Satellite dishes shall be permitted, without a zoning permit, provided that such items are not located in the front yard and do not exceed 1 meter in diameter.
- b. Where a proposed satellite dish will exceed 1 meter in diameter, the following shall apply:
 - i. A zoning permit shall be required;
 - ii. The satellite dish may not be constructed on a residential or business structure;
 - iii. The satellite dish shall only be located in the rear yard;
 - iv. The satellite dish may not exceed 15 feet in height from the ground to the highest point of the dish; and
 - v. The satellite dish shall not exceed four feet in diameter.

10. Swimming Pools

- a. Outdoor lighting shall be subject to the lighting standards of Section 1135.12 (Outdoor Lighting).
- b. All swimming pools and associated equipment of the swimming pool shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the Village of Batavia and, where applicable, the Clermont County Combined Health District.
- c. Associated equipment shall be screened from view with landscaping, fence, or similar materials. Noise from equipment shall not be audible from adjacent properties. Equipment covers or boxes shall be used as necessary to eliminate noise nuisance.
- d. Private Swimming Pools

All private swimming pools shall be regulated according to the following requirements:

 - i. Except as herein provided, no swimming pool or associated equipment, shall be permitted within any required front and side yards, nor within any public right-of-way or utility easement. Associated equipment may be permitted in the side yard if determined by the Village Zoning Department that such equipment will not cause a detrimental impact on surrounding properties.

- ii. In-ground swimming pools shall be required to have a fence or wall, including a self-closing or self-locking door or gate, around the pool or the property on which the pool is located. Such fence or wall shall be a minimum of four feet, but not more than six feet in height; such fences or walls shall be constructed in such a manner that a small child may not reach the pool from the street or any adjacent property without climbing the fence or wall or opening the gate or door.
 - iii. Above-ground swimming pools shall be required to have a fence or wall, including a self-closing or self-locking door or gate, around the pool or property upon which the pool is located if the sides of the pool are shorter than four feet in height. Such fences shall comply with division (ii) above.
 - iv. Any access to above ground pools by means of a ladder or stairway shall be provided with a self-closing or self-locking door or gate, or some other device that would prevent a small child from gaining access to the pool by means of a ladder.
 - v. Associated equipment shall be screened from view with landscaping, fence, or similar materials. Noise from equipment shall not be audible from adjacent properties. Equipment covers or boxes shall be used as necessary to eliminate noise nuisance.
- e. Public, Semi-Public and Commercial Swimming Pools

All public, semi-public, and commercial swimming pools shall be regulated according to the following requirements:

 - i. Except as herein provided, no swimming pool and associated equipment shall be permitted within any required front and side yards or within the limits of any public right-of-way or utility easement.
 - ii. The swimming pool or the property on which the pool is located shall be surrounded by a fence or wall, including a self-closing or self-locking door or gate. Such fence or wall shall be a minimum of five feet, but not more than eight feet in height; such fences or walls shall be constructed in such a manner that a small child may not reach the pool from the street or any adjacent property without climbing the fence or wall or opening the gate or door.
 - iii. No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent residential properties.

11. Solar Energy

- a. Nonresidential Ground-Mounted Systems shall be regulated under Section 1133.15 Accessory Uses.
- b. All Solar Energy Systems are subject to Net Metering Requirements: LCO 915.13 with review and approval by the Clermont County Building Department.
- c. Residential Ground-Mounted Solar Energy Systems shall be regulated under Section 1133.15 Accessory Uses and the following:
 - i. Ground-mounted solar energy systems shall only be permitted in the rear yard and shall be set back a minimum of ten feet from all lot lines.
 - ii. No ground-mounted system shall exceed four feet in height as measured from ground.
 - iii. Ground-mount systems shall be limited to 36 square feet total footprint.
 - iv. All related mechanical equipment, including the photoelectric panels, shall be fully screened from the adjacent properties by fencing or a combination of evergreen and deciduous plantings.
 - v. A Village zoning permit shall be required for ground-mounted solar energy systems.
- d. Roof-Mounted Solar Energy Systems
 - i. Roof-mounted solar panels that are integrated with the surface layer of the roof structure or are mounted flush with the roof structure may be permitted on any roof surface of a principal building or accessory building.
 - ii. Roof-mounted solar panels that are mounted at an angle to the roof structure shall only be permitted on roof surfaces that face the side or rear lot and shall be angled no more than 15% from the surface of the roof.
 - iii. No portion of any roof-mounted solar equipment may extend above the ridge line or below the gutter line.
 - iv. Solar panels may be mounted on flat roofs provided there is a parapet wall or other architectural feature that screens the view of the panels. Such panels may be mounted on an angle provided they do not extend more than five feet above the roof surface.
 - v. All solar equipment, except portions of the collectors that must be black or clear glass or plastic to allow light transmission or heat absorption, including mounting brackets and/or screening materials, shall match the abutting surface color.
 - vi. Solar panels and related equipment mounted on roofs not clearly visible from the street are permitted exposed supply/return heating/cooling lines provided the covering insulation is colored to match that of the roof and wall surfaces to which they are attached; and eave penetration is used for perpendicular descent of heating/cooling lines from the roof to the exterior building wall surfaces.
 - vii. A Village zoning permit shall be required for roof-mounted solar energy systems.

12. Chickens in Residential Areas Use-Specific Standards

Permitted in designated residential districts as an Accessory Use with Use-Specific regulations. In addition to the applicable provisions of this chapter, chicken keeping shall comply with the following:

- a. It shall be unlawful for any person to keep chickens in violation of any provision of this Chapter or any other provision of the Municipal Code. No person shall keep chickens inside a single-family dwelling unit, multi-family dwelling unit(s) or rental unit. Chickens shall only be permitted on single-family properties and are not permitted on two-family and multi-family properties.
- b. No person shall keep chickens on a vacant or uninhabited tract of land. Only female chickens (hens) are allowed. No person shall keep a rooster.
- c. The maximum number of hens allowed is six (6) per occupied tract of land. For lots over one (1) acre the maximum number of hens allowed is twelve (12).
- d. A permit shall not allow the permittee to engage in chicken breeding, culling, or fertilizer production for commercial purposes.
- e. Any violation of the terms of this Chapter that constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under the general nuisance abatement provisions. Noise from chickens shall not be loud enough beyond the boundaries of the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity. Odors from hens, chicken manure or other chicken related substances shall not be perceptible beyond the boundaries of the permitted tract of land.
- f. Chickens and coops shall only be located in the rear yard. Hens must be kept in an enclosure or fenced area at all times. The hens shall not roam off the permitted property. No dog or cat or other domesticated animal which kills a chicken off the permitted tract of land will, for that reason alone, not be considered a dangerous or aggressive animal or the Village's responsibility to enforce its animal control provisions.
- g. Hens shall be secured within a coop during non-daylight hours. Coops, chicken tractors and chicken pens must be located at least twenty (20) feet from all property lines. Coops and chicken pens shall be screened from view from adjacent properties with a combination of fencing and landscaping, and the following shall apply:
 - i. The materials used in making a coop shall meet the accessory use standards. The use of scrap, waste board, sheet metal, or similar materials is prohibited. Coops shall be well maintained.
 - ii. Any enclosed chicken pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing. Coops and chicken pens must provide adequate ventilation and adequate sun and shade and must be impenetrable to rodents, wild birds and predators, including dogs and cats.
 - iii. Coops shall be designed to provide safe and healthy living conditions for the chickens with a minimum of four (4) square feet per bird while minimizing adverse impacts to other residents in the neighborhood. Enclosures must be kept in a clean, dry, odor-free, neat and sanitary condition at all times.
 - iv. A coop shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and

- vents must be covered with predator and bird proof wire of less than one (1) inch openings.
- h. The Permittee shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed.
 - i. Hens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds and predators.
 - j. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored on the permitted tract of land. All other manure not used for composting or fertilizing shall be removed. The coop and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.
 - k. Following two (2) violations, the Village can revoke the right to permit hens on the subject property.

1133.16 TEMPORARY USES

A. Purpose

This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses do not negatively affect adjacent properties, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building or structure.

B. General Temporary Use Standards

Temporary uses, structures, or events shall:

1. Obtain a temporary zoning permit, where required, pursuant to Table 1133-8;
2. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
3. Be compatible with the principal uses taking place on the site;
4. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
5. Not include permanent alterations to the site;
6. Not maintain temporary signs associated with the use or structure after the activity ends;
7. Comply with the sign and parking regulations of this Ordinance;
8. Not violate the applicable conditions of approval that apply to a site or use on the site;
9. Not interfere with the normal operations of any permanent use located on the property;
10. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.
11. The conduct of general retail sales or commercial activities in residential areas is, except as otherwise expressly authorized under this Ordinance, are prohibited.

C. Table of Allowed Temporary Uses

Table 1133-8 lists the temporary uses allowed within all zoning districts.

Table 1133-8: Temporary Uses			
Temporary Use or Structure	Allowable Duration (per site)	Permit Required	Districts
Construction Dumpster, Trailers, or Equipment Storage [1]	Until Completion of Construction [2]	Temporary Zoning Permit	Permitted in All Zoning Districts
Real Estate Sales Office/Model Sales Home	2 years [3]	Temporary Zoning Permit	Permitted in All Zoning Districts
Temporary Storage in a Portable Container	Up to 3 times per year with a maximum of 30 days per calendar year	Temporary Zoning Permit	Permitted in All Zoning Districts in the Rear Yard
Temporary Structure (as part of an educational facility or institutional use)	2 years [3]	Temporary Zoning Permit	Permitted in All Zoning Districts
Garage/Yard Sales	3 days per event	No Temporary Zoning Permit Required [4]	Permitted in All Zoning Districts where Residential Uses are Permitted
Temporary Sales on Private Property[5]	Up to 15 days per event with a maximum of 120 days per calendar year	Temporary Zoning Permit and Transient Vendor's License [6]	ER, B2, and B1 Districts
Temporary Farm Markets or Garden Sales [7]	Up to 120 days per calendar year	Temporary Zoning Permit and Transient Vendor's License[6]	ER, IO, B1 and B2 District
Temporary Events on Private Property	14 days per calendar year	Temporary Zoning Permit	Permitted in All Zoning Districts
NOTES: [1] Construction dumpsters, trailers, and equipment storage shall not be located on a public street. [2] Construction dumpsters, trailers, and equipment storage used during the development of a residential subdivision shall be removed once 85% of the certificates of occupancy have been issued. [3] Annual extensions may be granted by the Village Administrator or Zoning Director if conditions warrant. [4] A temporary zoning permit shall be required if the proposed garage sale/yard sale exceeds the permitted days of operation. [5] Temporary sales must take place on lot of existing or vacated building and the temporary zoning permit application must include a written statement from the property owner authorizing such sales. The temporary zoning permit shall be prominently displayed at the site. [6] Transient Vendors License can be obtained through the Clermont County Auditor. [7] Temporary farm markets or garden sales shall meet the standards for outdoor storage, sales, and displays in addition to the standards established for temporary uses in this section.			

1133.17 NONCONFORMITIES

A. Purpose

In the provisions established by this Ordinance, there exist uses of land, structures, and lots of record that were lawfully established before this Ordinance was adopted or amended, that now do not conform to its terms and requirements. The purpose and intent of this section is to regulate the continued existence of those uses, structures, and lots of record that do not conform to the provisions of this Ordinance, or any amendments thereto.

B. Nonconformities and Variances

1. The granting of a variance for a nonconforming structure or lot that otherwise complies with this Ordinance shall not create a nonconformity when the variance is granted,
2. When a property owner or authorized agent is granted a variance for a nonconforming structure or lot that addresses the nonconformity, the structure or lot shall no longer be considered nonconforming.
3. If a property owner or authorized agent is granted a variance for a nonconforming structure or lot that addresses some nonconformities but additional nonconformities continue, the structure or lot shall still be considered a legal nonconformity.

C. Nonconforming Lots of Record

1. Any lot of record which does not meet the requirements of this Ordinance shall be considered a nonconforming lot of record.
2. Where a single nonconforming lot of record exists having a lot area less than required by the particular zone district wherein such lot is located, development may be permitted on the lot, provided the lot is located on an existing and improved public street, and development proposed on the lot is in conformance with all other requirements of this Ordinance. Where a dimensional variance from any minimum yard, setback, and the like is necessary to develop on such lot, an application for dimensional variance shall be submitted for review and approval by the BZA in accordance with Section 1132.08 (Variance) of this Ordinance.

D. Nonconforming Uses

1. Continuance

Except as herein provided, the lawful use of any structure or land existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the provisions of this Ordinance; it shall become a legal nonconforming use. However, a nonconforming use may not be enlarged or extended beyond its area of use at the time it becomes a legal nonconforming use, unless and until the use is brought into conformance with all provisions of this Ordinance.

- a. Nonconforming uses may be enlarged or extended beyond their area of use up to 20 percent of the current area, subject to a review by the Planning Commission and recommendation to Village council. Final approval will be subject to Village council approval, as listed in subdivision (1)(b) below.
- b. Within a reasonable time after receipt of the Planning Commission's recommendations and findings concerning the application, the Village council shall take action to approve, approve with conditions, or disapprove the proposed amendment.

2. Change of Nonconforming Uses

Change from one nonconforming use to another. As regulated by Section 1132.10 (Change or Modification of Nonconforming Uses) of this Ordinance.

3. Termination

In all cases, the BZA shall hold a public hearing in accordance with the applicable requirements of Subsection 1132.03 (H) related to the change or modification of nonconforming uses. Following that hearing, the BZA may terminate the right to operate a nonconforming use based on any of the following conditions, and if the decision is to do so, the BZA shall state its bases, in writing, for such determination.

- a. Whenever the structure in which the nonconforming use is non-operative, unused, or abandoned for a period of 12 consecutive months, providing that the BZA may allow the continuation of such if it is determined that the reasons for such nonuse were beyond the owners/operators control.
- b. Whenever the structure in which the nonconforming use is operated is damaged in any manner whatsoever and the cost of repairing such damage exceeds 50 percent of the market value of such structure in which the nonconforming use is operated and a determination is made by the BZA that this structure should not be reconstructed.
- c. Whenever the structure in which the nonconforming use is operated becomes obsolete or substandard under any applicable ordinance of the Village and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds 50 percent of the market value of such structure as of the date of the official order, and a determination is made by the BZA that this structure should not be reconstructed.

4. Zone Change

The foregoing provisions shall also apply to uses which become legally nonconforming due to zone changes which take place after the effective date of this Ordinance.

E. Nonconforming Structures

1. Continuance

Except as herein provided, any lawful nonconforming structure existing at the time of adoption of this Ordinance may be occupied, operated, and maintained in a state of good repair, but a nonconforming structure shall not be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this Ordinance.

2. Termination

In all cases, the BZA shall hold a public hearing in accordance with the applicable requirements of Subsection 1132.03 (H) related to the change or modification of nonconforming uses. Following that hearing, the BZA may terminate the right to operate a nonconforming structure based on any of the following conditions, and if the decision is to do so, the BZA shall state its bases, in writing, for such determination.

- a. Whenever the nonconforming structure is damaged in any manner whatsoever and the cost of repairing such damage exceeds 50 percent of the market value of such structure and a determination is made by the BZA that this structure should not be reconstructed.
- b. Whenever the nonconforming structure becomes obsolete or substandard under any applicable ordinance of the Village and the cost of placing such nonconforming structure in lawful compliance with the applicable ordinance exceeds 50 percent of the market value of such structure as of the date of the official order, and a determination is made by the BZA that the structure should not be reconstructed.

3. Zone Change

The foregoing provisions shall also apply to structures which become legally nonconforming due to zone changes which take place after the effective date of this Ordinance.

F. Repairs and Maintenance

1. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the building, as it existed at the time of passage or amendment of this Ordinance which rendered it nonconforming, shall not be increased.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof declared to be unsafe by any official charged with protecting the public safety, except for the conditions as stated in Section (1133.17(D)(3)(b)), or Section (1133.17(E)(2)(b)).

CHAPTER 1134: SITE DEVELOPMENT STANDARDS

1134.01 MEASUREMENTS, COMPUTATIONS, AND EXCEPTIONS

A. Percentages and Fractions

When a measurement results in a fractional number or percentage, any fraction of $\frac{1}{2}$ or less shall be rounded down to the next lower whole number and any fraction of more than $\frac{1}{2}$ shall be rounded up to the next higher whole number. Any percentage of #.5 percent or less shall be rounded down to the next lower whole number and any percentage greater than #.5 percent shall be rounded up to the next higher whole number.

B. Distance Measurements

Unless otherwise expressly stated, distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining those points.

C. Lot-Area Measurements

1. Lot-Area Measurements

The area of a lot includes the total horizontal surface area within the lot's boundaries.

2. Reductions in Lot Area Prohibited

- a. No lot shall be reduced in area so that lot area per dwelling unit, lot width, yards, building area, or other requirements of this Ordinance are not maintained except where such reduction has been brought about by the expansion or acquiring of public rights-of-way..
- b. If, however, by some means (for example, misinterpretation of law, erroneous lot descriptions, and the like) the lot area is reduced below the minimum required lot area as specified herein for the zone, all of the uses and structures contained on the remaining portion of the area shall be subject to compliance with all other provisions of this Ordinance.
- c. In the event that the uses and structures cannot comply in such circumstances, the property owner shall seek relief from the BZA, as provided for in Section 1132.08 (Variances).

D. Setbacks and Yards

1. Measurements

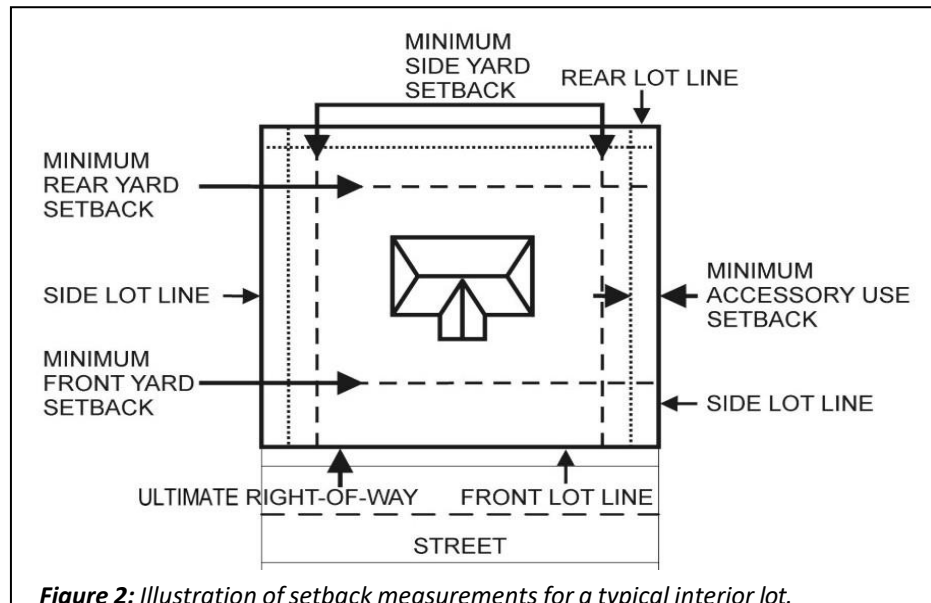
Setbacks refer to the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located. Setbacks shall be unobstructed from the ground to the sky except as otherwise expressly allowed in Subsection 1134.01 (D)(8).

2. Yards Required for Buildings

A yard or other open space required about a building shall not be included as part of a yard or other open space for another building.

3. Front-Yard Setback

- a. The yard fronting a street shall be considered to be a front yard and shall meet the minimum front-yard setback.
- b. The front-yard setback shall extend the full width of the lot and shall be measured from the street right-of-way line.



4. Side-Yard Setback

The side-yard setback shall extend from the required front-yard setback line to the required rear-yard setback line and shall be measured from the side lot line. If no street or rear-yard setback is required, the setback shall extend the full depth of the lot.

5. Rear-Yard Setback

The rear-yard setback shall extend the full width of the lot and shall be measured from the rear lot line.

6. Front Yard Variance

- a. Where the average depth of existing front yards within 300 feet of the lot in question and within the same block front, is greater than the minimum front yard depth required by this Ordinance, the required minimum front yard depth on such lot shall be modified to be the average depth of such existing front yards.
- b. In any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within the same block, when 51% or more of lots within that block are improved with residential buildings; provided that in no case shall a front yard depth be less than 12 feet unless determined appropriate in scale to the surrounding development by the Village Zoning Department.

7. Side Yard Variance

Where the average width of existing side yards within 300 feet of the lot in question and within the same block front, is less than the minimum side yard width required by this Ordinance, the required minimum side yard width on such lot shall be modified to be the average depth of such existing side yards. However, in no instance shall a side yard be less than four feet.

8. Permitted Obstructions in Minimum Required Yards

Except as herein provided, the following shall not be considered to be obstructions when located in the required minimum yards specified:

a. Obstructions Permitted in All Minimum Required Yards

Driveways; private walkways; fire escapes and chimneys projecting not more than 18 inches into the minimum required yards; arbors and trellises; flag poles; bird baths; trees; plants; shrubberies; ornaments; utility poles and wires; and outdoor furniture; fences and walls, subject to the requirements of Section 1135.14 (Fencing); and off-street parking as provided for in Chapter 1137 (Parking, Loading, and Access Control).

b. Obstructions permitted in Minimum Front Yards.

Bay windows, overhanging eaves and gutters projecting not more than three feet into the minimum required front yard; air conditioning equipment, awnings and canopies extending not more than four feet into the minimum required front yard; and roof-covered steps and porches with post supports extending not more than five feet into the minimum required front yard. In no case will these encroachments be permitted to be closer than 10 feet to a right-of-way line.

c. Obstructions Permitted in Minimum Rear Yards

Bay window, overhanging eaves, and gutters, and air conditioning equipment projecting not more than three feet into the minimum required rear yard; awnings and canopies provided they extend not more than ten feet into the minimum required rear yards.

d. Obstructions Permitted in Minimum Side Yards

Air conditioning equipment, excluding compressor for central air conditioning unit; overhanging eaves and gutters, awnings, and canopies providing that they extend not more than two feet into the minimum required side yard.

9. Corner Lots

- a. Where a lot is considered a corner lot, the required minimum front yard setback shall be provided on each street or section thereof. See Figure 3.
- b. The lot line of least dimension opposite the public right-of-way shall be the rear lot line and the minimum rear yard setback shall be applied. See Figure 6.
- c. The lot line of greatest dimension opposite the public right-of-way shall be the side lot line and the minimum side yard setback shall be applied. See Figure 3.

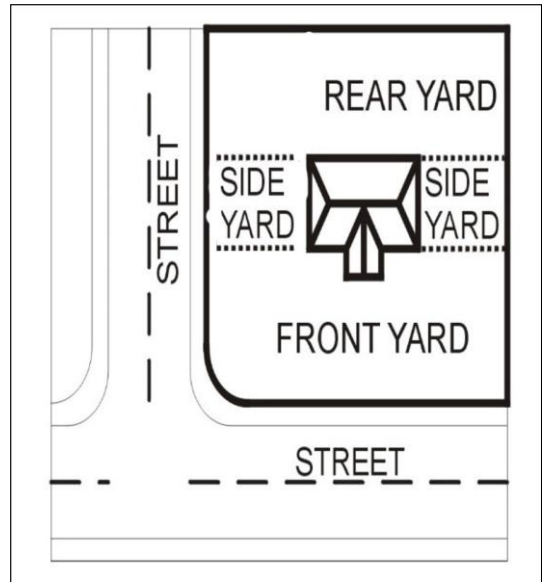


Figure 3: Yard locations on a corner lot.

10. Double Frontage Lots

- a. Where a lot is considered a double frontage lot, the required minimum front yard setback shall be provided on both streets. See Figure 4.
- b. The remaining lot lines not abutting a public road right-of-way shall be considered as side yards and shall have the required minimum side yard setback provided for each

side lot line. See Figure 4.

- c. For the purposes of the placement of accessory uses, the front yard located to the rear of the structure shall be considered the rear yard.

11. Panhandle Lots

- a. Flag or panhandle lots shall not be used to avoid the construction of a street.
- b. The panhandle shall have a minimum width of 15 feet.
- c. The minimum front yard setback requirement shall be measured from the lot line that creates the rear lot line of the adjacent lot. See Figure 5.
- d. The minimum lot area requirement for panhandle lots shall be two times the minimum lot area requirement of the applicable zoning district.
- e. The panhandle portion of the lot shall not be used for storage nor shall any structures be permitted in such portion of the lot.

12. Cul-de-Sac or Curved-Street Lot

For a cul-de-sac lot or a lot abutting a curved street, the front-yard setback shall follow the curve of the front property line. See Figure 6.

E. Lot-Width Measurements

Lot width is the distance between the side lot lines measured at the point of the front setback line.

F. Height Measurement and Exceptions

1. Height Measurement

- a. Where specified in stories, building height shall be measured in number of complete stories above the finished grade for any elevation fronting on a public street including attics, half-stories, mezzanines, at-grade structured parking, but excluding features that are greater than one-half story or completely below grade, such as basements, cellars, crawl spaces, subbasements, and underground parking structures.
- b. Where specified in feet, building height shall be measured as the vertical distance from grade at the base of the structure to (See Figure 7):
 - i. The highest point of a flat roof;
 - ii. The deck line of a mansard roof; or
 - iii. The mean height between the eaves and ridge on gable, hip, or gambrel roofs.

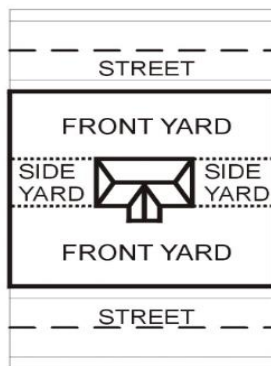


Figure 4: Yard locations on a double frontage lot.

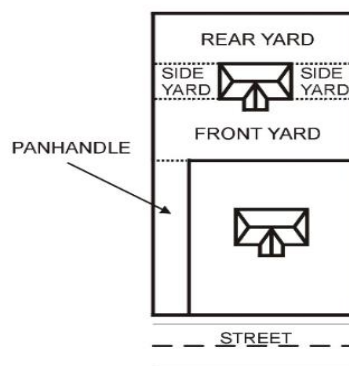


Figure 5: Yard locations on a panhandle lot.

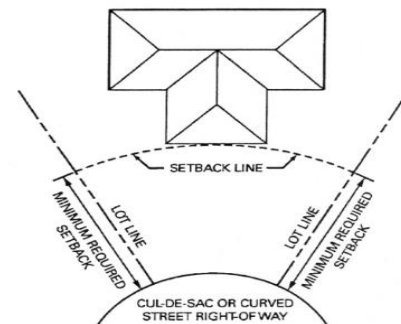


Figure 6: Front yard setback (front yard) on a cul-de-sac.

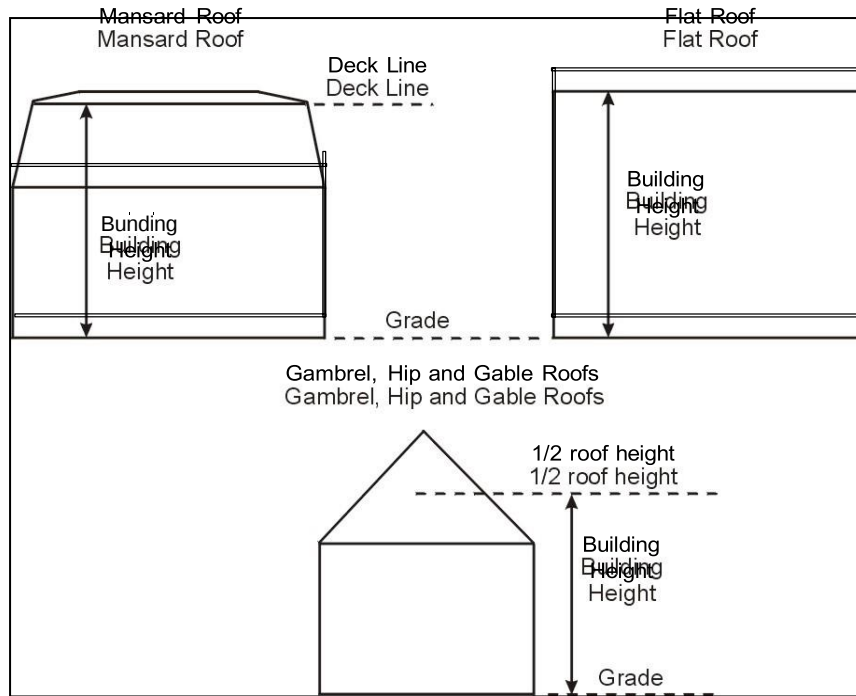


Figure 7: Height measurement of buildings by roof types.

2. Exceptions to Height Limits

- a. The height limitations of this Ordinance shall not apply to: church spires, smoke stacks, elevator research towers, radio and television towers, and necessary mechanical appurtenances, and the like provided their construction is in accordance with existing or hereafter adopted ordinances of the Village, and is acceptable to the Federal Aviation Agency and the Federal Communication Commission.
- b. All amateur radio towers that do not fall under the definition of a telecommunication tower and which exceeds the allowable height of structures in a residential zoning district shall be limited in height to:
 - i. A maximum height equal to ten feet more than the maximum height for permitted residential structures in the applicable district; or
 - ii. A height equal to the distance as measured from the base of the tower to the nearest lot line with a maximum height of 100 feet.

1134.02 GENERAL SITE DEVELOPMENT STANDARDS

- A. Except as herein provided, every structure hereafter erected shall be located on a single lot as herein defined, and there shall not be more than one principal building on one lot, except in accordance with subsection 1134.02(G)(1), nor shall any building be erected on any lot, which does not abut a public right-of-way.
- B. More than one nonresidential use may be permitted as part of a PUD approval.
- C. All buildings and lots shall meet the minimum site development standards set forth in this chapter unless otherwise specified in use-specific regulations Chapter 1133 (Zoning Districts and Use Regulations).
- D. No building, other than accessory storage buildings, may be constructed in any zone unless such building is connected to a public water and central sanitary sewer system of adequate capacity and designed and approved by the County Water and Sewer Department.

- E. Where existing buildings, other than accessory storage buildings, are presently not served by a public sanitary sewer system and are located within a reasonable distance of an existing or newly extended sanitary sewer line, as determined by the Village Administrator or Zoning Director and have legal access to such sewer line, such building shall be required to connect with the public sanitary sewer system within one year of the date of official notice to connect, and the private sewage disposal system shall be prohibited.
- F. No building shall be erected on any lot that does not have permanent means of ingress or egress.
- G. All permitted uses shall be located on an individual and separate lot with the following exceptions:
 - 1. Two or more principle structures may be located on a single lot within the R-2 Districts for multi-family developments , business or industrial districts, or may be permitted as part of a PUD approval.
- H. Unless exempt under 1132.02, all development within the Village shall contain a principal building of sufficient size and use as to qualify as a usable structure within the corresponding zoning district.

1134.03 DISTRICT SITE DEVELOPMENT STANDARDS

Tables 1134-1 and 1134-2 on the following pages define the site development standards for the residential and business zoning districts.

CHAPTER 1134: SITE DEVELOPMENT STANDARDS

Zone Districts		Bulk Measures	Permitted Use Standards	Conditional Use Standards
ER	Estate Residence (low density rural and estate character)	<u>Minimum:</u> Lot Size Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR(2) Density (net)	1 acre 150 feet 35 feet 25 feet 50 feet 3 stories 20% 1 unit/acre (u/a)	6,000 square feet 50 feet 20 feet 5 feet (20 ft. total) 25 feet 50% 4 unit/acre (u/a)
R-1	Suburban Residence (medium density, suburban subdivision character)	<u>Minimum:</u> Lot Size (SF)(3) (other)(4) Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> _Height ISR (2) Density (net)	20,000 square ft 1 acre 100 feet 50 feet 10 feet (40'total) 40 feet 3 stories 50% 2 units/acre	8,500 square ft 15,000 square ft 66 feet 40 feet 10 feet (20' total) 5 units/acre
R-2	Village Residence (high density, traditional neighborhood village character)	<u>Minimum:</u> Lot Size (SF)(2) (other)(3) Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR (4) Density (net)	8,500 square ft 66 feet 20 feet 10 feet (total) 40 feet 3 stories 75% 5 units/acre	10,000 square ft

Residential Site Development Standards

CHAPTER 1134: SITE DEVELOPMENT STANDARDS



Table 1134-2: Business and RE District Site Development Standards

Zone Districts		Bulk Measures	Permitted Use Standards	Conditional Use Standards	
B-1	Village Business (pedestrian oriented, ground floor commercial, “Main Street” character))	<u>Minimum:</u> Lot Size Lot Width Rear Yard <u>Maximum:</u> Side Yard Front Yard Height ISR(4) Density (net)	8,500 square ft None 40 feet 0 (5 ft, one side) 0 feet 3 stories 100% NA	 0 feet 15 feet Per R-1	
B-2	General Business (vehicle oriented commercial, arterial road corridor character)	<u>Minimum:</u> Lot Size Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR (4)	20,000 square ft 100 feet 40 feet 10 feet 20 feet 3 stories 60%	10,000 square ft 66 feet 0 feet 80%	
IO	Industrial/Office (Offices, businesses or industries engaged in operations; generally low intensity and enclosed with coordinated campus character)	<u>Minimum:</u> Lot Size Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR (4)	2 acres 100 feet 50 feet 50 ft if adjoins SF 40 feet 3 stories 60%	10,000 square feet 3 stories 80%	

CHAPTER 1135: GENERAL DEVELOPMENT STANDARDS

1135.01 INTERFERENCE WITH TRAFFIC CONTROL DEVICES

No sign, structure, tree, planting, vegetation, or other obstruction shall protrude into any right-of-way so as to create confusion around, or otherwise interfere with, traffic signals and/or signage of any kind unless otherwise specified in this Ordinance.

1135.02 UTILITIES LOCATION

Electrical transformer stations, gas regulator stations, sewage and water treatment plants, pumping stations, above ground storage tanks for public water supply, and other similar utility uses may be located in any zone subject to the approval of the Planning Commission, as set forth in Section 1132.07 (Conditional Use Review) of this Ordinance. The location of such facilities shall be in accordance with all other pertinent regulations and the following requirements unless otherwise exempted by the Ohio Revised Code:

- A. Such facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the element is a part.
- B. A building or structure, except an enclosing fence, shall be set back at least 25 feet from any property line.
- C. Such facilities shall be enclosed by a protective fence as regulated by Section 1135.14 (Fencing).
- D. Open spaces on the premises shall be suitably landscaped and maintained and a screening area according to Chapter 1138 (Landscaping and Buffering) of this chapter may be required in and along any yard.
- E. The storage of vehicles and equipment on the premises, unless enclosed or screened, shall be prohibited.
- F. The surrounding area shall not be adversely affected by, and shall be protected from noise, odor, glare, dust, gas, smoke and vibration by such suitable means and conditions as the Planning Commission may specify.
- G. To the maximum reasonable extent, buildings and structures should be as compatible in design as possible with the character of surrounding development.

1135.03 RAILROAD RIGHT-OF-WAY LOCATION

Railroad rights-of-way, exclusive of such uses as marshalling yards, spur lines, passenger and freight terminals, maintenance shops, fueling facilities, and round houses, may be located in any zoning district in this Ordinance providing said railroad right-of-way meets the requirements of the applicable sections of the Ohio Revised Code.

1135.04 REGULATIONS CONCERNING THE DESIGN AND CONSTRUCTION OF PUBLIC IMPROVEMENTS

- A. Any proposed development requiring the construction of public streets (including curb and gutters) sidewalks, sewers (sanitary and storm) water lines or other improvements, which does not constitute a subdivision, as herein defined, shall be required to be designed and constructed in accordance with the Clermont County Standards.
- B. Where the street is in existence, Council may delay curb, gutter, sidewalk, and road widening, until such time as it is determined that the improvements are necessary. If such delay is granted, the property owner shall execute an agreement committing to such improvements of curb, gutter, sidewalk, and road widening, and will without protest, submit to the method of financing directed by the Village. Such agreement shall be filed for record with the Clermont County Recorder as a covenant on the property.

1135.05 BUILDING REGULATIONS

All structures shall be designed, erected, or altered in accordance with the County's building codes and the Village of Batavia Code of Ordinances Chapter 150. All building maintenance shall be governed by the Village of Batavia Code of Ordinances Chapter 150.

1135.06 WATER AND SANITARY SEWER SERVICE REQUIREMENT

- A. If a building or use can be reasonably served by the extension of an existing public sanitary sewer, as determined by the County engineer, the subdivider or developer shall provide of sanitary sewer mains connecting to such existing sewer and shall provide lateral connections for each lot. Where an adequate public sanitary sewer is not reasonably accessible, the subdivider or developer shall provide for sewage treatment in addition to installation of mains and laterals, except as otherwise provided in the subdivision ordinance.
- B. Septic tanks and leaching beds for single- family residences may be permitted, provided both the Planning Commission and the health agency having jurisdiction specifically authorize their use for a particular building, use, or subdivision and provided further that all requirements of such health agency are complied with.

1135.07 EXCAVATION, MOVEMENT OF SOIL, AND EROSION AND SEDIMENTATION CONTROL

All excavation, movement of soil, and/or erosion and sedimentation control shall be consistent with the Clermont County Regulations.

1135.08 COMPLIANCE WITH FLOOD PROTECTION STANDARDS

Flood protection standards shall be regulated by the Clermont County Building Department.

1135.09 GENERAL RETAIL SALES PROHIBITED

General retail sales or commercial activities in residential areas is prohibited except as otherwise expressly authorized Ordinance. Garage sales are permitted only insofar as they are conducted consistent with the limitations set forth in the temporary use regulations of Section 1133.15 (Accessory Uses).

1135.10 MOVE AND SET

- A. Requirements

No building, structure, or improvement shall be moved from or set upon land located in any area or transported upon any public street, in the Village of Batavia, until and unless both: a building permit to move and set from Clermont County; and a transport permit, have been obtained; and such building, structure, or improvement complies with the provisions of this Ordinance.
- B. Compliance

All buildings, structures, and improvements shall comply with the Village's housing and building code, and all other applicable codes and regulations.

1135.11 UNENCLOSED, UNSIGHTLY AND/OR UNSANITARY STORAGE

In all districts, the unenclosed storage of materials, debris, junk, tools, salvage materials, etc. is prohibited unless allowed in section 1135.13 (F). No rubbish, garbage, or miscellaneous refuse etc. shall be openly stored or kept in the open when the same may be construed to be a menace to public health and safety by the appropriate health department or have a depressing influence upon property values in the neighborhood in the opinion of the Village Zoning Department.

1135.12 OUTDOOR LIGHTING

A. Purpose

The purpose of this outdoor lighting section is to regulate outdoor lighting in order to reduce or prevent light pollution and to minimize lighting impacts on surrounding properties. This means to the extent reasonably possible the reduction or prevention of glare and light trespass, the conservation of energy, and promotion of safety and security.

B. Applicability

1. The regulations of this section shall apply to all lighting that illuminates the exterior of a building, structure, open space, parking and loading areas, or other features of a lot for all uses except single-family and two-family dwellings.
2. Photometric lighting plans shall be submitted for review with all applications for site plan review.
3. Lighting required by the federal or state law shall be exempted from the standards of this section.

C. Design Standards for Exterior Lighting

All exterior lighting shall meet the following standards:

1. Maximum Lighting Height
 - a. Except for outdoor recreation fields or performance areas, stand-alone outdoor lighting fixtures shall not exceed 30 feet in the IO District and 20 feet in height in all other districts whether mounted on poles or walls or by other means.
 - b. Wherever possible, illumination of outdoor seating areas, building entrances, and walkways shall be accomplished by use of ground-mounted fixtures not more than four feet in height.
 - c. Lighting fixtures attached to buildings, structures, or walls shall not extend above the top of the building, structure, or wall.
2. Shielding
 - a. Exterior
Light fixtures in excess of 60 watts or one hundred 100 lumens shall use full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets.
 - b. Canopies
No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.
 - c. Awnings
Awnings or canopies used for building accents over doors, windows, etc., shall not be internally illuminated (i.e. from underneath or behind the awning).

3. Maximum Light Levels

All outdoor lighting shall be designed and located so that the maximum illumination measured in foot-candles at a property line shall not exceed the standards in Table 1135-1, Maximum Illumination Values.

Table 1135-1: Maximum Illumination Values (Regardless of Type of Light)	
Use	Maximum Illumination At Property Line (in Foot-candles)
Residential, Public, and Institutional	0.5
Commercial	2.5
Service and Industrial/Edge of Right-of-Way	2.5
Parking Lots	No less than 0.2 and no greater than 2.5

4. Direction of Lighting

- No light source shall be directed outward toward property boundaries or adjacent right-of-way.
- Low intensity architectural lighting may be used to illuminate individual structures or landscaping materials provided the maximum illumination values comply with the standards in Table 1135-1.

5. Distance from Property Line

All exterior lighting fixtures shall be located a minimum of ten feet from a property line or five feet from a right-of-way line.

6. Hue

Lighting sources shall be color-neutral types such as halogen or metal halide. Light types of limited spectral emission including, but not limited to low-pressure sodium or mercury vapor lights, are prohibited.

D. Wall-mounted Lights

Wall-mounted lights shall be fully shielded luminaries (such as shoebox or can style fixtures) to prevent the light source from being visible from any adjacent residential property or public street right-of-way. Nothing in this sub-section shall prevent the use of sconces or other decorative lighting fixtures provided that the source of illumination is not visible from adjacent lands used or zoned for residential purposes, and provided that the maximum illumination values comply with the standards in Table 1135-1, Maximum Illumination Values.

E. Floodlights and Spotlights

- Floodlights and spotlights shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on a portion of the building façade or other intended site feature and away from adjoining lands or right-of-way. On-site lighting may be used to accent architectural elements but shall not be used to illuminate entire facades of a building.
- Such lighting shall be installed in a fixture that is shielded so that no portion of the light bulb extends below the bottom edge or above the top edge of the shield, and the main beam from the light source is not visible from adjacent lands of the adjacent right-of-way.

F. Wall Pack Lights

Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. "Wall Packs" on the exterior of the building shall be fully shielded (true cut-off type bulb or light source

not visible from off-site) to direct the light vertically downward and be of low wattage (preferably one hundred 100 watts or lower). Wall pack lights shall be buffered and/or shielded from shining directly into adjacent residential uses.

G. Illumination of Outdoor Recreation Fields and Performance Areas

Lighting of outdoor recreational fields and performance areas shall comply with the following standards:

1. Glare Control Package

All lighting fixtures shall be equipped with a glare control package (e.g., louvers, shields, or similar devices), and the fixtures shall be aimed so that their beams are directed and fall within the primary playing or performance area; and

2. Hours of Operation

The hours of operation for the lighting system shall be on a timer with hours as approved by the planning commission.

H. Sign Lighting

Lighting fixtures illuminating signs shall comply with the standards of this section, and such fixtures shall be aimed and shielded so that direct illumination is focused exclusively on the sign face.

I. Nonconforming Outdoor Lighting

The nonconforming use of lighting may continue until the luminaire is replaced.

1135.13 OUTDOOR SALES, DISPLAY, AND STORAGE

A. Purpose

The purpose of these regulations is to ensure the proper use of land for outdoor displays, sales, and storage so as to minimize impacts on surrounding property owners and uses.

B. Applicability

The provisions of this section shall apply to all uses except single-family, two-family dwellings, and uses exempted pursuant to Subsection (C) below.

C. Exemptions

The following uses where the outdoor displays and sales associated with a principal building are the primary use of the lots shall be exempt from the maximum area and the side yard display requirements included as part of these regulations:

1. Outdoor display, sales, and storage areas approved as part of a site plan prior to the effective date of this Ordinance;
2. Automotive sales or rental;
3. Greenhouses;
4. Temporary sales on a lot;
5. Tool rental or sales facilities; and
6. Similar uses as determined by the Planning Commission during site plan review.

D. General Standards

All outdoor sales, display, and storage areas shall require a zoning permit and shall be illustrated on the corresponding site plan unless exempted in Subsection (C) above.

1. Outdoor sales, display, and storage areas shall not be located in any required setback, parking and circulation area, right-of-way, or required landscape or buffer area.
2. Such sales, display, and storage areas shall be prohibited if they will create any safety hazard for pedestrians. A minimum pathway in areas used for outdoor displays, sales,

and storage shall be provided to allow for the flow of pedestrian traffic outside of designated vehicular traffic drives. Such pathways shall have a minimum clearance width of four feet, or the width required to meet the minimum standards of the Americans with Disabilities Act or the Batavia Building Code, whichever is greater.

3. Where screening or security fencing is provided or required, decorative cast iron, aluminum, wood material, or materials used in the principal building, shall be used for the fencing. Other materials may be permitted with the approval of the Planning Commission.
4. Chain link fencing shall be permitted only where the fencing is not visible from any public right-of-way.
5. All outdoor sales, display, and storage areas shall be maintained free of garbage and other debris.

E. Standards for Outdoor Sales and Displays

Outdoor sales and displays may be permitted where such sales and display areas comply with the following regulations:

1. Outdoor sales and displays are prohibited on vacant lots unless approved in advance by the Planning Commission as a temporary use.
2. Outdoor sales and displays may be permitted provided that the merchandise is displayed along the sidewalk, the walkway adjacent to the building, or in the side yard;
3. Outdoor displays and sales of bulk or large products that exceed 20 pounds, including, but not limited to mulch (bag or bulk), concrete, salt, or other similar products that cannot be easily carried into the store for purchase shall be required to meet the requirements of Subsection 1135.13 (F).
4. Outdoor cafes and food service areas may be permitted when they comply with the following regulations:
 - a. Outdoor cafes and food service areas shall be designated on the site plan.
 - b. If no grade separation is provided between vehicular traffic and the outdoor café or food service area, permanent railings or fencing shall be provided around the café or food service area.
 - c. Umbrellas that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.
 - d. Enclosing outdoor cafes or food service areas either by a permanent roof or to expand the existing structure shall meet all the requirements of a building within the applicable zoning district and shall require the issuance of a zoning permit.

F. Standards for Outdoor Storage Areas

Outdoor storage areas may be permitted where such storage areas comply with the following regulations:

1. Outdoor storage shall be prohibited on vacant lots.
2. Outdoor storage may be permitted provided that the storage areas are located in the side or rear yard/lot and materials pertain to the business, commercial or industrial use.
3. Storage of any goods or materials shall not exceed six feet in height unless the storage is fully screened by a wall that is architecturally compatible with the main structure in material type and color.
4. All outdoor storage areas shall be screened from view of the public right-of-way by a six-foot fence or in conformance with Subsection 1135.13 (D) above unless screened by an architecturally compatible wall as provided for in paragraph (3) above.

5. Screening shall not be required if the outdoor storage area is located out of view from any public right-of-way.
6. In all residential districts, the outdoor storage of wood used for fireplaces, firepits, smokers, or etc. shall be stored in the rear yard a minimum of 10 feet from any lot lines. Stacked wood shall not exceed four feet in overall height unless stored within a fully enclosed accessory structure located on the property or enclosed by a privacy fence tall enough to effectively conceal its contents from off-street views at ground-level.

1135.14 FENCING

A. Permit Required For Erection of Fences, Walls and Hedges

1. No fence, wall or hedge shall be erected, except as exempted or specified within this Ordinance, until all required fees have been paid and a zoning permit has been issued for such fence by the zoning department.
2. The applicant shall submit a site plan with the permit application showing property lines, location of fence, wall, hedge height and extent of purpose of fence, wall or hedge is within two feet of side or rear property lines, it is recommended the applicant provide a survey showing existing conditions and surveyor's pins to identify the fence, wall or hedge in retrospect to the property lines.
3. While a survey is not required it is recommended.
4. A separate fence application and permit shall not be required if such fence is incorporated as part of a site plan, submitted in accordance with Section 1132.05 (Site Plan Review).

B. Prohibited Fencing Materials

1. Chain link, mesh and other similar wire fence materials shall be prohibited in the front yard and side yard. In the rear yard, the fence running from the principal building to the side yard, facing the front yard, shall not be chain link.
2. Barbed wire and other sharp pointed fencing materials shall be prohibited.

C. Fencing Permitted in Residential Districts

Fences and/or walls within all residential zoning districts (R Districts) shall conform to the following requirements:

1. Fences, walls, and hedges must be set back 1 ft off any sidewalk and 11 ft off any roadway pavement.
2. Only decorative fencing or wood-picket fences shall be permitted in a front yard provided the fencing is no more than 50% opacity and has a maximum height of 48 inches except for fencing in accordance with subsection 1135.14(C)(1)(a). Split-rail fencing shall be prohibited in the front yard unless authorized as part of a PUD.
 - a. Masonry columns are permitted in the front yard to a maximum height of 72 inches. Decorative fencing may curve up to meet the columns to a maximum height of 66 inches.
 - b. On corner lots, where side and rear property lines are contiguous with right of ways lines, fences, walls, and hedges shall comply with location, height and opacity requirements for front yards. In instances where privacy for side and rear yards is desired, a maximum height of 72 inches with 100% opacity may be constructed.

-
3. Fencing may be erected in side or rear yards up to a maximum height of 48 inches and 50% opacity in the side yard and 72 inches and 100% opacity in a rear yard, except for the following:
- a. Woven wire fencing that is at least 80 percent open or chain link fencing may be erected to enclose tennis courts or as backstops for baseball and/or softball fields up to a maximum height of 120 inches.
- D. Fencing Permitted in Business Districts
- Fences and/or walls within all business districts, including those permitted with all conditionally permitted uses in these districts, shall conform to the following requirements:
- 1. Permitted fencing may be erected in front yards of lots in a business district with a maximum height of 48 inches (See Figure 8).
 - 2. Masonry columns are permitted in the front yard to a maximum height of 96 inches. Decorative fencing may curve up in an arch from a distance 10 feet to meet the columns to a maximum height of 66 inches.
 - 3. Except as provided for in Section 1137.12 (Vision Clearance Triangle), permitted fencing may be erected in side and rear yards of lots in a B2, or B1 District with a maximum height of 72 inches (See Figure 8).
 - 4. Except as provided for in Section 1137.12 (Vision Clearance Triangle), permitted fencing may be erected in side and rear yards of lots in an IO District with a maximum height of 120 inches.
- E. Fencing Permitted in PUD District
- The location, height, and type of all fences and/or walls within any area zoned with a PUD shall be as approved by the Planning Commission.
- F. On properties where no structure exists, a fence, wall or hedge shall not project past the minimum front yard building setback or the average front building line of the adjacent properties, whichever is greater.
- G. A fence, wall or hedge shall not obstruct line-of sight visibility of vehicular traffic on any adjacent street.
- H. Fencing atop Retaining Walls
- A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to the level of the higher finished grade, provided a building permit has been obtained for such retaining wall from the County. The fence portion must be of the class and height permitted within this Ordinance for the applicable zone. Fence height shall be measured from the level of the higher finished grade.

I. Electric Fences

1. Fence carrying an electrical charge shall not be permitted in any zone except when such fence is used in conjunction with an agricultural use, as defined herein, and provided the fence is not located along the perimeter with adjacent property.
2. Underground electric or radio fencing used for the confinement of animals shall be exempt from this prohibition.

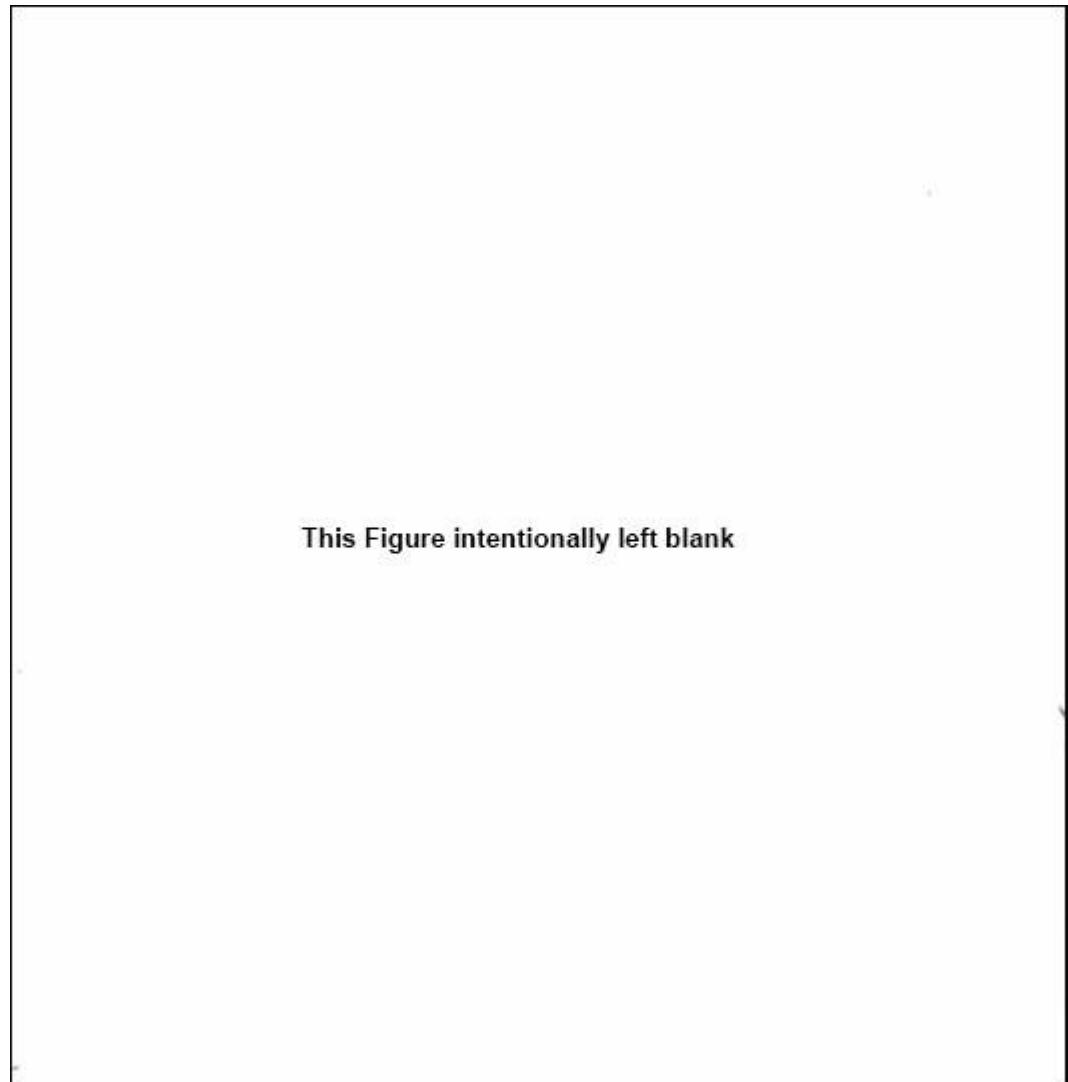


Figure 8: *Intentionally left blank.*

J. Structural Elements of Fencing

Fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side which faces the property owned by the person building the fence.

1135.15 OPEN SPACE STANDARDS

A. Purpose

This section addresses the character and design of those portions of development that are not occupied by platted lots or streets and that are reserved for parks, trails, landscaping, and other open space uses. The standards of this section apply regardless of whether or not the land involved will be dedicated to the Village, and regardless of whether or not such open space will be open to the public or to other residents of the development.

B. Applicability of Open Space Standards

1. General

Unless exempted in accordance with Paragraph (2) below, the provisions of this section shall apply to all new subdivisions for residential uses and for PUDs.

2. Open Space Exemptions

Development in the B1 District is exempt from compliance with this section.

C. General Open Space Standards

1. Open Space Set-Aside Required for All Subdivisions for Residential Uses

a. A minimum of fifteen percent of any new subdivision for residential uses shall be set aside for open spaces. This shall not apply to residential uses or subdivisions subject to a PUD.

b. Open space requirements for a PUD are established in Section 1133.14 (D)(5).

2. Calculation of Open Space Set-Aside

For the purposes of complying with this section:

a. Unique Features

Natural features (riparian areas, wetlands, wildlife corridors, steep slopes, etc.), natural hazard areas (floodplains, slopes, etc.), water features (drainage canals, ditches, lakes, natural ponds, streams, rivers, etc.), and wildlife habitat areas for threatened and endangered species shall be counted towards open space set-asides.

b. Required Landscaping and Tree Protection Areas

Except for areas devoted to internal landscaping within a vehicular use area, areas occupied by required landscaping or tree protection areas shall be counted towards open space set-asides.

c. Active Recreational Areas

Land occupied by active recreational uses such as pools, playgrounds, tennis courts, jogging trails, and clubhouses used primarily for recreation purposes shall be counted toward open space set-asides.

d. Passive Recreational Areas

Passive recreation areas shall be counted towards open space set-asides.

e. Stormwater Management Devices

i. Land area occupied by stormwater retention ponds and other bio-retention devices such as rain gardens shall be counted towards open space set-asides when such features are treated as a site amenity through the inclusion of

walking trails, fountains, gazebos, and other improvements that allow some use of the open space.

- ii. Land area occupied by stormwater management devices as described above may only count toward 50% of the total area land required to be set aside for open spaces (i.e., if ten acres of open space is required, only five acres of stormwater management areas may be counted toward the ten acre requirement.).

f. Land within Lots Subject to Easements

Land within the boundary of a private lot, if it is subject to a conservation easement shall be counted towards open space set-asides.

g. Not Counted as Open Space

The following areas shall not be counted as open space set-asides:

- i. Private yards not subject to an open space or conservation easement;
- ii. Public or private streets or rights-of-way, including sidewalks;
- iii. Open parking areas and driveways for dwellings;
- iv. Land covered by structures not designated for active recreational uses; and
- v. Designated outdoor storage areas.
- vi. Detention Basins

3. Design Standards for Open Space Set-Asides

Land set aside as open space set-asides shall meet the following design standards:

a. Location

Open space shall be located so as to be readily accessible and useable by residents and uses of the development. Where possible, a portion of the open space should provide focal points for the development.

b. Configuration

The lands shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.

c. Adjacent to Existing or Planned Open Space

Where open areas, trails, parks, or other public spaces are planned or exist adjacent to the parcel where the open space set-aside will be located, the open space shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the presently existing trail, park, or other open area land.

d. Prioritization of Open Space Set-Aside

To the maximum extent practicable, the open space set-aside should be located and organized to include, protect, or enhance as many of the following open areas and features as possible:

- i. Natural features such as riparian areas, wetlands, wildlife corridors, steep slopes, mature trees with a DBH of six inches or more, rock outcroppings, and natural hazard areas;
- ii. Connections with park, recreational, or open space features and facilities on adjacent lots;
- iii. Water features such as drainages, canals, ditches, lakes, natural ponds, and retention ponds;
- iv. Landscaped buffers or visual transitions between different types or intensities of uses;

- v. Natural or geologic hazard areas or soil conditions, such as unstable or potentially unstable slopes, faulting, landslides, rockfalls, expansive soils, or floodplains;
- vi. Habitat for endangered species; and
- vii. Areas that accommodate multiple compatible open space uses rather than a single use.
- e. Minimum Percentage Devoted to Active Recreation
In cases where the majority of developed land is proposed for development of residential uses, a minimum of 20 percent of the open space set-aside shall be reserved for active park and recreational uses or facilities as described in Subsection 1135.15 (C)(4)(a).
- f. Alternative Plan
An alternative open space plan may be submitted for review by the Planning Commission. The Planning Commission shall be authorized to allow such alternative plan if it meets the purpose and intent of this Ordinance and this section in providing a range of natural and improved open spaces in the Village of Batavia.

4. Allowable Uses in Open Space Set-Asides

Open space set-aside areas shall not be developed with any structures except for the following:

- a. Active Park and Recreational Uses
Facilities for active recreation, including but not limited to: benches or other seating areas; pedestrian scaled lighting; gazebos or other decorative structures; fountains or other water features; play structures for children; gardens or seasonal planting areas; pools; athletic fields; courts; and clubhouses used primarily for recreational purposes (equipment or structures for such uses shall be indicated on the site plan, preliminary plat for subdivision, or PUD regulating plan).
- b. Passive Recreational Uses
Passive recreational and educational purposes, including but not limited to walking, jogging, biking, picnicking, fishing, preservation of natural areas and scenic resources, parks, environmental education, and wildlife habitat protection.

D. Ownership of Open Space Set-Asides

1. Dedicated to Homeowner's or Property Owner's Association

All open space set-aside areas shall be owned and maintained jointly or in common by the owners of the development through a recognized Homeowner's or Property Owner's Association, which should be established in accordance with the following:

- a. The landowners shall submit documents for the creation of the Homeowners or Property Owners Association to the Village for review and approval, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for the open space set-aside, including a legal description of such areas;
- b. The landowner shall agree that the association shall be established by the landowner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before approval of the first final plat for subdivision of the land or zoning permit, whichever occurs first; and
- c. Membership in the association shall be automatic (mandatory) for all purchasers of land therein and their successors in title.

- d. The open space may be deeded to the homeowner's association simultaneously with recordation or, at a maximum, shall be deeded to the association within 90 days after the recording of the final plat. In phased developments, this requirement shall apply to the open space within the phase being platted.
 - 2. Retained on Private Lots
All required open space set-aside areas maintained on individual building lots shall be protected as open space through the use of an easement prohibiting future development of the open space, except in accordance with this section. Such open space shall be clearly marked on the site plan, preliminary plat, and final plat for subdivision. Any required open space areas subject to an open space easement shall be credited against any open space set-aside required.
 - 3. Dedicated to Village
In some cases, certain lands designated as open space set-aside areas, such as floodplains, may be dedicated to the Village during the development review process, at the landowner's option. Village council shall determine which lands and under what conditions such dedications will be accepted by the Village.
- E. Maintenance of Open Space Set-Asides
- The owner of the land shall be responsible for maintenance of all open space set-aside areas unless dedicated to the Village. If open space set-aside areas or other community facilities are not maintained in accordance with the approved site plan, preliminary or final plats, or PUD regulating plan, the Village shall cause such maintenance to be performed and may assess the cost of such maintenance on those property owners subject responsible for the maintenance of the open space set-aside.

1135.16 PERFORMANCE STANDARDS FOR INDUSTRIAL ZONING DISTRICTS

- A. Applicability
After the effective date of this Ordinance, any use established or changed to, and any building, structure, or tract of land developed, constructed or used for any permitted or permissible principal or accessory use in all industrial zones (IO) shall comply with all of the performance standards herein set forth for the district involved. If any existing use or building or other structure is extended, enlarged, or reconstructed, the performance standards for the district involved shall apply with respect to such extended, enlarged, or reconstructed portion or portions of such use or building or other structure.
- B. Performance Standards
 - 1. Building Enclosures
 - a. In the IO, industrial district, permitted uses shall be operated either within a completely enclosed building or within an area screened from view at the nearest district boundary, according to Section 1135.13 (Outdoor Sales, Display, and Storage) and Chapter 1138 (Landscaping and Buffering).
 - 2. Landscaping
 - a. In all industrial districts, all required yards shall either be open, landscaped and grassed areas, or be left in a natural state, if acceptable to the Planning Commission. If said area is to be landscaped, it shall be landscaped attractively with lawn, trees, shrubs, etc., according to the initially submitted plans which were first approved for the development of such tract as a permitted use or as regulated by this Ordinance for new construction.

- b. In areas to be used for off-street parking, the parking arrangement and surfacing must likewise have been approved for the development of such tract as a permitted use. Any landscaped areas shall be properly maintained thereafter in a well-kept condition. Parking areas shall likewise be maintained in good condition. Any areas left in a natural state shall be properly maintained in a well-kept condition.
- 3. Odorous Matter
No emission of odorous matter shall be allowed in excess of ambient air quality standards as set forth by regulations adopted by the Ohio Environmental Protection Agency.
- 4. Humidity, Heat, or Glare
In the IO District, any activity producing humidity, in the form of steam or moist air or producing heat or glare, shall be carried on in such a manner that the steam, humidity, heat or glare is not perceptible at any lot.
- 5. Radiation
In all industrial zones, all sources of ionizing radiation shall be registered or licensed by the State of Ohio, in accordance with their regulations.
- 6. Electrical Radiation
In all industrial zones, any electrical radiation shall not adversely affect, at any point on or beyond the lot line, any operation or equipment other than those of the creation of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
- 7. Emissions and Open Burning
No emission of particulate matter, sulfur compound, carbon monoxide, hydro-carbon, nitrogen oxide, and open burning shall be allowed in any industrial zone in excess of the standards of the Ohio Environmental Protection Agency.
- 8. Waste
In the IO District, all waste material or refuse shall be disposed of in accordance with the Solid Waste Regulations of the State of Ohio.
- 9. Mining and Reclamation
All methods of operation, construction of roads, backfilling, grading, blasting, water impoundments, treatment facilities, and reclamation must be in conformance with the applicable regulations of the State of Ohio.
- 10. Blasting and Explosives
All blasting and the use of explosives must be conducted in accordance with the regulations set forth by the State of Ohio.

CHAPTER 1136: ARCHITECTURAL DESIGN/MAINTENANCE GUIDELINES

1136.01 PURPOSE

The purpose of this section is to encourage development that contributes to the Village of Batavia as a unique place, reflecting the community's physical character and adding to it in appropriate ways. The architectural design of multi-family dwellings and nonresidential development, particularly large-scale developments, determines much of the character and attractiveness along the thoroughfares of the Village, and the gateways to our community. These standards require: a basic level of architectural variety; detail siding and roof materials that are considered traditional in Batavia; compatible scale and mass to surrounding development; and mitigation of negative impacts. These regulations serve as a basis to promote creative architectural design that is in context with its surroundings.

1136.02 ARCHITECTURAL DESIGN REQUIREMENTS

- A. The Planning Commission must review and approve the architectural design of new nonresidential buildings, residential buildings that contain three or more units, exterior modifications, and additions to existing buildings outside of the Main Street Overlay District in accordance with the requirements of this section. Exterior modification that meet the standards of the zoning code may be reviewed administratively.
- B. Building Orientation
 1. All buildings shall be oriented so that the primary entrances faces the primary street and main driveways that serve as internal circulation. In the case of corner lots, the primary entrance shall face the street from which the building is addressed. It is acceptable to have two primary entrances, but no secondary entrance may face a street. A primary entrance shall be defined by the entrance's function, scale and/or design detail.
 2. Buildings shall be parallel to the street they front unless an alternate orientation is consistent with existing adjacent development.

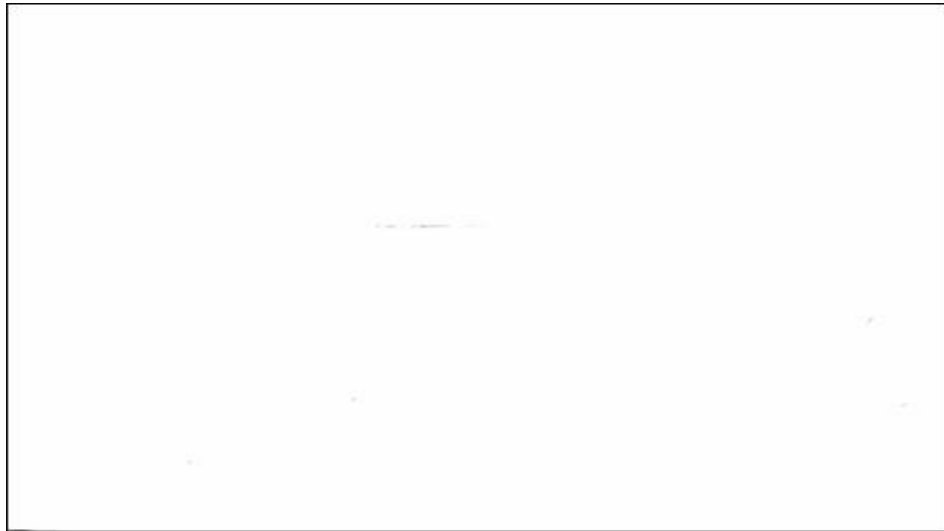


Figure 10: This diagram intentionally left blank..

C. Building Massing

1. Buildings should maintain a similar size, height, bulk, scale and mass of surrounding architecture.
2. If a proposed structure is to be larger than the structures in surrounding developments, the building may be subdivided into massing that is proportional to the mass and scale of surrounding structures.
3. Buildings that are characterized by a flat roof and a continuous wall elevation of uniform height shall contain three-dimensional architectural elements, which serve to break up the horizontal emphasis of the elevation. Building entrances, corners and other similar features are examples that may be characterized by a separate mass.
4. For a single-story building, required architectural elements may have a height that exceeds the wall height of the dominant portion of the building by at least ten percent but no greater than the maximum building height required by the zoning district.

D. Building Façades

1. Architectural elevations for all buildings should be that the design, massing, materials, shapes, and scale of all new or modified principal buildings, and accessory buildings create a unified design on the premises and should be visually compatible with the surrounding buildings.
2. Front façades 60 feet wide or wider may incorporate wall offsets of at least 2 feet in depth (projections or recesses) a minimum of every 40 feet. Each required offset should have a minimum width of 20 feet.
3. Front facades for residential buildings should provide a minimum of three of the following design features for each residential unit fronting onto the street:
 - a. One or more dormer windows or cupolas;
 - b. A recessed entrance;
 - c. A covered porch;
 - d. Pillars, posts, or pilasters;
 - e. One or more bay windows with a minimum 12 inch projection from the façade plane;
 - f. Eaves with a minimum six- inch projection from the façade plane;
 - g. A parapet wall with an articulated design, which entails design variation rather than a simple rectilinear form; or
 - h. Multiple windows with a minimum four-inch wide trim.
4. Rear and side facades, if visible from public streets, shall have a similar architectural treatment as utilized on the primary or front façade.
5. Blank building walls facing streets are prohibited.
6. All other side facades may have a minimum of ten percent façade area glazing. Body colors shall be low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited. A maximum of three accent colors are also permitted that are compatible with the body color.
7. Color shades shall be selected in general harmony with the existing surrounding buildings.
8. Any building color or color combinations whose major function is to convey visual information or attract visual attention is considered a sign and subject to the requirements of Chapter 1139 (Signs).

E. Customer Entrance Design

1. Non-residential buildings shall have clearly-defined, highly visible customer entrances that include no less than three of the following design features:
 - i. Canopies/porticos above the entrance;
 - ii. Roof overhangs above the entrance;
 - iii. Entry recesses/projections;
 - iv. Arcades that are physically integrated with the entrance;
 - v. Raised corniced parapets above the entrance;
 - vi. Gabled roof forms or arches above the entrance;
 - vii. Outdoor plaza adjacent to the entrance having seating and a minimum depth of twenty (20) feet;
 - viii. Display windows that are directly adjacent to the entrance;
 - ix. Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above and/or directly adjacent to the entrance; or
 - x. Integral planters or wing walls that incorporate landscaped areas or seating areas. A wing wall is a wall secondary in scale projecting from a primary wall and not having a roof.

F. Wall Openings

1. Building elevations that directly front a public street may contain windows, which occupy at least 30 percent of the total wall surface area.
2. The percent of the wall surface area used for windows that is less than this minimum requirement may be approved by the Planning Commission after taking into account the architectural style, general design, arrangement, texture, materials, and color of other structures and premises in the area.
3. Doors and windows shall be positioned in an orderly manner. Where appropriate, these elements shall form a pattern or visual rhythm along the building elevation.
4. All doors and windows should be articulated through the use of lintels, sills, and thresholds. Windows larger than 20 square feet that are not used for display purposes shall be divided into panes through the use of mullions and/or sashes.
5. Doors and windows shall primarily be rectangular in shape.

G. Building Roof

1. The visual continuity of roofs and their contributing elements (parapet walls, coping, cornices, etc.) shall be maintained in building development or redevelopment.
2. Roof styles shall contribute to the enhancement, longevity, safety, utility for a particular use, and overall integrity of a particular proposed structure and whether the proposed structure will be visible to vehicular or pedestrian traffic, or to the owners and occupants of surrounding property.
3. The height of any pitched roof shall not exceed one-half of the overall building height.
4. When flat roofs are used, parapet walls with three-dimensional cornice treatments shall conceal them. The cornice shall include a perpendicular projection a minimum of eight inches from the parapet façade plane.

5. Permitted materials for pitched roofs include wood, slate, terra cotta tile, fiberglass reinforced asphalt roof shingles and standing seam or tern metal. Except when used on flat roofs that are not generally visible, roll roofing, built-up tar and gravel, metal panel or corrugated metal, plastic or fiberglass roofing materials, other than fiberglass reinforced asphalt roof shingles shall be prohibited. Other roof materials shall require specific approval by the Planning Commission taking into account the architectural style, general design, arrangement, texture, materials, and color of other structures and premises in the area. Planning Commission may also consider whether the use of any roof styles will contribute to the enhancement, longevity, safety, utility for a particular use, and overall integrity of a particular proposed structure and whether the proposed structure will be visible to vehicular or pedestrian traffic, or to the owners and occupants of surrounding property.
 6. Building walls, parapets, and/or roof systems shall be designed to conceal all roof-mounted mechanical equipment from view from adjacent properties and public rights-of-way.
 7. To the degree practicable, all roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) be located on the rear elevations or configured to have a minimal visual impact as seen from the street.
- H. Garages and Car Ports
1. Detached garages/car ports serving multi-family buildings shall be located to the side or rear of such buildings parallel to the primary structure.
 2. The exterior materials, design features, and roof form of garages and car ports shall be compatible with the building it serves.
- I. Building Materials
1. Brick, stone, textured concrete block, wood, or applied materials, or other synthetic materials as determined by staff are permitted. In no case shall the use of the following materials exceed 15% of the entire façade visible from the public right-of-way or adjacent residential uses:
 - i. Siding that imitates wood lap siding such as aluminum or vinyl siding or siding that imitates brick or stone,
 - ii. Ceramic tile or ceramic block,
 - iii. Sheet metal, corrugated metal, or other similar metal panels,
 - iv. Poured concrete, concrete block, textured concrete block, concrete panels, panels with an aggregate surface, or other similar concrete siding,
 - v. Applied materials such as stucco or E.I.F.S., or
 - vi. Vertical wood siding or slats.
 - vii. Exposed smooth-finished concrete block for all building elevations; and
 - viii. Synthetic stucco (EIFS) within two feet of the grade level and within two feet of any exterior door jamb.
 2. Materials not specifically permitted above may be reviewed by the Planning Commission to take into account the architectural style, general design, arrangement, texture, materials, and color. The Planning Commission may approve the use of any such materials that contribute to the enhancement, longevity, safety, utility for a particular use, and overall integrity of a particular proposed structure, and whether the proposed structure will be visible to vehicular or pedestrian traffic, or to the owners and occupants of surrounding property.

3. Building materials shall not create excessive glare. If highly reflective building materials are proposed, such as aluminum, unpainted metal and reflective glass, the potential for glare shall be evaluated to determine if the glare will create a significant adverse impact on adjacent property owners, neighborhoods or community in terms of vehicular safety, outdoor activities, and enjoyment of views. If so, such reflective materials shall be prohibited.
4. Clear glass shall be used for commercial storefront display windows and doors, and retain 30% visibility up to 10 feet into the building interior.
5. Exposed foundation walls or piers should be clad in face brick, stone, stucco or some other masonry material accurately imitating these materials. Lattice work screening shall be installed between piers on front and side building facades.

J. Vacant Buildings

Abandoned buildings and sites cause negative visual and fiscal concerns for the community. Therefore, in order to minimize these instances upon the community, and in addition to this and other applicable codes and ordinances, the following shall apply to vacated building(s) or development reviewed under this section:

a. Exterior Surfaces

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches and trim shall be maintained in good repair. Exterior wood surfaces, other than decay resistant materials, shall be protected from the elements and decay by painting or other protective coverage or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repaired. All siding and masonry joints shall be maintained weather resistant and watertight;

b. Exterior Walls

Exterior walls of buildings shall be maintained free from holes, breaks, loose or rotting materials, and graffiti; and shall be maintained weatherproof and properly surface coated as needed to prevent deterioration.

c. Roofs

Roofs of buildings shall be maintained so that they are structurally sound and in a safe condition and weather tight, and have no defects, which might admit rain or cause dampness in the interior portions of a building. All portions, additions or sections of a roof including, but not limited to, the fascia, eave, soffit sheathing, rafter tail, barge rafter, vent screening, gutter, downspout, roof jack, lead or metal flashing, shall be complete with all trim strips, moldings, brackets, braces and supports attached or fastened in accordance with common building practices.

d. Windows & Doors

All glass areas, including those in windows and doors shall be fully supplied and maintained as per the development plan. Temporary boarding up of windows/doors are only allowed to protect area until repair. Persistent boarded up windows/doors are prohibited. Screens must be in good condition with no tears, holes, or fraying.

e. Grounds

- i. All landscaped areas as defined in the approved development plan shall be maintained and kept free of weeds, overgrowth, trash, old building materials, junk, unlicensed or inoperative vehicles, and other such material and equipment.
- ii. All driveway, parking, loading and outside storage areas shall be maintained as per the approved development plan; and

CHAPTER 1136: ARCHITECTURAL DESIGN/MAINTENANCE REQUIREMENTS

- iii. All fences, walls, lighting, signs, storage structures, and other visual physical improvements or appurtenances as per the approved development plan shall be maintained in a safe, working order and in good appearance and free of graffiti.

K. General Property Maintenance

Unless otherwise described in the Village of Batavia Ordinances, all properties including buildings and grounds should follow the guidelines set forth in Section 1136 J Vacant Buildings.

L. Modification

The Planning Commission may modify any of the design requirements listed in Chapter 1136 during the site plan review process and approve a submitted design upon findings that the request will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Chapter would detract from the stated purpose of this Chapter. A request for a modification shall be submitted to the Planning Commission and shall be heard at a regularly scheduled Planning Commission meeting. The Planning Commission shall decide the issue within a reasonable time after the meeting. In evaluating a request for a modification, the Planning Commission shall include, but not be limited to, the following criteria:

- a. The specific condition(s) which are unique to the applicants use;
- b. The manner in which strict application of this Chapter would deprive the applicant a reasonable use of the land in a manner equivalent to the use permitted other landowners in the same zone;
- c. The unique conditions and circumstances are not self-created after the adoption of this Chapter;
- d. Reasons that the variance shall preserve, not harm the public safety and welfare, and shall not alter the essential character of the neighborhood; and
- e. The fact that the agreed upon Architectural Design substantially complies with the terms of this chapter.

CHAPTER 1137: PARKING, LOADING, AND ACCESS CONTROL

1137.01 PURPOSE

The purpose of this chapter is to:

- A. Prevent and alleviate the congestion of public streets;
- B. Increase and protect the Village roadway system;
- C. Promote greater safety of passage between highway and land;
- D. Minimize the detrimental effects of vehicular use areas on adjacent properties; and
- E. Promote the health, safety, and public welfare by establishing minimum requirements for off-street parking and loading areas as well as provisions for access control.

1137.02 APPLICABILITY

A. New Uses

The parking, loading, and access control requirements of this chapter shall apply to a site plan review or zoning permit application for the construction of a new building or use in any district.

B. Expanded Uses

1. Whenever a building or use created prior to the effective date of this Ordinance is changed or enlarged in floor area, number of units, or otherwise that will create a need for an increase in the number of parking spaces, the additional parking spaces shall be provided on the basis of the new demand created by the enlargement or change.
2. If the proposed expansion or enlargement will increase the floor area, number of dwelling units, or other area to an extent larger than 20 percent of the building or use prior to the effective date of this Ordinance, then the entire site come into compliance with the requirements of this chapter.
3. In cases where small expansions or enlargements occur over a period of time after the effective date of this Ordinance, the site shall come into full compliance with the requirements of this chapter once the total expansion or enlargement of the floor area, number of dwelling units, of other area exceed 20 percent of the original size at the time this Ordinance became effective.

C. Change of Use

No change of use shall be authorized unless the new use meets the minimum number of parking spaces required by this chapter.

D. Existing Uses

The parking, loading, and access control requirements of this chapter shall not apply to buildings and uses legally in existence on the effective date of this Ordinance unless modified in the manner stated in Subsections A or B (New or Expanded Uses) above. Furthermore, any parking or loading facilities now serving such existing buildings or uses shall not be reduced below the requirements established in this chapter in the future.

E. Maintenance

The duty to provide and maintain all such parking and loading areas shall be the joint responsibility of the owner, operator, and lessee of the use for which the vehicular areas are required.

1137.03 GENERAL PROVISIONS

- A. Parking Plan Required
 - 1. Plans for all parking facilities, including parking garages, shall be submitted to the Village Zoning Department for review and a determination of compliance with the provisions of this ordinance and other pertinent ordinances of the Village.
 - 2. Where such parking plans include provisions for access points to adjacent streets, then such plans shall also be prepared in accordance with the requirements of Section 1137.13 (Access Control).
 - 3. A separate parking plan is not required if the parking plan is being submitted as part of a site plan, in accordance with Section 1132.06 (Site Plan Review).
- B. Off-street Parking Space to be Used for Parking Only

Any approved off-street parking area shall be used for parking only. Any other use of such space, including, but not limited to, outdoor sales, outdoor storage, repair work or servicing of any kind, other than in an emergency, shall be deemed to constitute a separate commercial use.

1137.04 RULES FOR COMPUTATION

The following rules shall apply when computing parking, loading, or stacking spaces:

- A. On-Street Parking
 - 1. On-street parking spaces may be counted toward off-street parking space requirements provided the on-street parking spaces are located with 300 feet of the lot.
- B. Driveway Space Meeting Parking Requirements

Entrances, exits, or driveways shall not be computed as any part of a required parking lot or area, except in the case of single-family and two-family dwellings where driveways may be used in calculating the amount of off-street parking.
- C. Fractions

When a measurement of the number of required spaces results in a fractional number, any fraction shall be rounded down to the next lower whole number.
- D. Multiple Uses

If noted or approved, off-street parking areas can serve more than one use to meet the requirements for each use.
- E. Area Measurements
 - 1. Unless otherwise specifically noted, all square footage-based parking standards shall be computed on the basis of gross floor area of all floors in a nonresidential building.
 - 2. Up to 25 percent of the gross floor area may be excluded from the above calculation if the area is used for storage, loading, unloading, or for mechanical equipment.
- F. Occupancy Based Standards
 - 1. For the purpose of computing parking requirements based on employees, students, residents, or occupants, calculations shall be based on the average number of persons working on a single shift, the average enrollment, or the fire-rated capacity, whichever is applicable.
 - 2. In hospitals, bassinets shall not be counted as beds.
 - 3. In the case of benches, pews and similar seating accommodations, each 24 inches thereof shall be counted as one seat for the purpose of determining the parking requirements.

G. Unlisted Uses

1. Upon receiving an application for a use not specifically listed in the parking schedule below, the Village Zoning Department shall apply the parking standard specified for the listed use that is deemed most similar to the proposed use in regards to use, size and intensity of use.
2. If the Village Zoning Department determines that there is no listed use similar to the proposed use, intensity, or size, they may refer to the estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE).

1137.05 OFF-STREET PARKING SPACE REQUIREMENTS

A. Number of Spaces Required

1. Table 1137-1 defines the number of parking spaces required for each use within Batavia.
2. The applicant may vary from the required number of parking spaces in accordance with Subsection 1137.05 (B).
3. The total number of required parking spaces shall be reduced by 75 percent for all uses in the B1 District prior to the application of any modification of required spaces as permitted in Section 1137.05 (B).

Table 1137-1: Minimum Number of Parking Spaces	
Use	Required Parking Spaces
Residential Uses	
Adult family homes, adult group homes, and other group homes	2 spaces per 6 bedrooms
Housing reserved for older adults (65 years or older)	0.5 space per bed
Multi-family dwellings	1 spaces per efficiency or single-bedroom dwelling unit and 1 space per dwelling unit for multiple bedroom dwelling units.
Nursing home or assisted living facility	1 space per 6 beds
Other institutional housing beyond those specified in this table	0.5 spaces per bedroom
Single-family dwellings	2 spaces per dwelling unit, not including spaces in a garage
Two-family dwellings	1 spaces per dwelling unit, not including spaces in a garage
Commercial Uses	
Amphitheaters, auditoriums, stadiums, theaters, and other places of assembly	1 space per 4 fixed seats or 1 space per 4 persons based on the maximum occupancy, whichever is greater

Table 1137-1: Minimum Number of Parking Spaces

Use	Required Parking Spaces
Automotive body repair or service	3 spaces per 1,000 square feet of floor area, excluding services bays, plus 2 spaces per service bay (service bays excluded as parking).
Fuel services	2 spaces per 1,000 square feet of floor area, excluding services bays, plus 1 space per fuel pump or service bay (service bay may not be counted as a parking space).
Automotive washes	2 spaces per washing bay (washing bay may not be counted as a parking space).
Automotive, boat, or other vehicle sales or rental	5 spaces per 1,000 square feet of indoor floor area, plus 2 spaces per service bay (service bay may not be counted as a parking space).
Banquet halls or exhibition halls	1 space per 4 persons, or 1 per 3,000 square feet, whichever is greater
Bars and taverns	8 spaces per 1,000 square feet
Bed and breakfast establishments	1 spaces for the owner or operator, plus 1 space for each bedroom rented to the public
Brewpubs, Microbreweries, Microdistilleries or Microwineries	4 spaces per 1,000 square feet of tasting room, taproom or table service area
Commercial schools for dance, music, or similar uses	1 space per 3 students
Day care centers	1 space for every 8 children
Funeral homes	1 space per 200 square feet
Garden stores or greenhouses	2 spaces per 1,000 square feet of indoor sales area, plus 1 space per 1,000 square feet of greenhouse or net outdoor sales
Health and fitness centers	2 spaces per 1,000 square feet
Vacation Rentals, Hotels and motels	1 space per room or suite
Outdoor displays, sales or storage	1 space per 1500 square feet
Personal service establishments	3 spaces per 1,000 square feet, or 1 spaces per station/chair, whichever is greater
Pool or billiard halls	3 spaces per 1,000 square feet
Recycling processing center, recycling collection station	1 spaces per 1,000 square feet
Restaurants	7 spaces per 1,000 square feet
Retail or service commercial uses	2 spaces per 1,000 square feet
Telecommunication structures	1 space per structure.
Type A family day care	2 spaces for the owner/unit plus 1 space for each 5 children who do not live in the dwelling
Veterinary facilities	3 spaces per 1,000 square feet
Wholesale commercial uses	2 spaces per 1,000 square feet.
Office Uses	
Clinics	3 spaces per 1,000 square feet.
Financial institutions	2 spaces per 1,000 square feet.
Offices or professional services	2 spaces per 1,000 square feet.

Table 1137-1: Minimum Number of Parking Spaces

Use	Required Parking Spaces
Manufacturing/Industrial Uses	
Industrial or manufacturing uses	1 space per 5,000 square feet.
Warehousing or storage	.5 space per 5,000 square feet
Self-Storage Facilities	1 space per 10 storage units.
Public and Institutional Uses	
Ball fields	20 spaces per field
Bowling alley	2 spaces per bowling lane
Religious places of worship	1 space per 5 fixed seats in the main assembly room or 1 space per 4 persons, whichever is greater
Cemetery Chapel	1 space per 5 seats in a chapel or place of assembly
Colleges, universities and other higher educational facilities	1 space for each 10 classroom seats plus 1 space for each 4 auditorium seats
Elementary or middle/junior schools	1 space per classroom, 1 space per 4 seats in auditorium, or 1 space for each 17 classroom seats (at maximum capacity), whichever is greater
Golf courses	3 spaces per hole
Golf driving ranges	1 space per tee
Hospitals	1 space for every 8 patient beds plus outpatient clinics, laboratories, pharmacies and other similar uses shall have 2 spaces per 1,000 SF.
Indoor recreational facility	2 spaces per 1,000 square feet
Libraries, museums and galleries	2 spaces per 1,000 square feet
Miniature golf courses	1 space per hole
Clubs	5 spaces per 1,000 square feet or 1 space per 4 persons, whichever is greater
Parks or playgrounds not otherwise specified	1 space per 20,000 square feet of park or playground area
Racquetball, handball and tennis courts	2 spaces per court.
Senior high schools	1 space per 5 students.
Skating rinks	3 spaces per 1,000 square feet.
Swimming pool	10 spaces per 1,000 square feet of pool area.
Volleyball courts	8 spaces per court.

B. Modification of Required Number of Spaces

For all uses except single-family and two-family dwellings, the number of parking spaces required in Table 1137-1 above may be modified according to the following provisions.

1. Providing More Parking Spaces than the Required Number of Spaces

- a. An applicant may provide a number of spaces equal to the number of required spaces or up to twenty percent more as of right.
- b. An applicant may provide additional spaces beyond those provided for in Subsection 1137.05 (A) above but shall be required to provide up to an additional 15 percent more vehicular use landscaping as determined by the Village Zoning Department in addition to that required in Section 1138.06 (Vehicular Use Area Landscaping).

2. Providing Fewer Parking Spaces than the Required Number of Spaces

- a. An applicant may provide a number of spaces equal to the number of required spaces or up to fifteen percent fewer as of right.
- b. Planning Commission may permit a total reduction of up to a maximum of 50 percent of the required number of spaces upon compliance with all other sections of this chapter.

C. Appeal

The Board of Zoning Appeals may authorize on appeal a modification, reduction, or waiver of the requirements specific to Ch. 1137.05 (A.) if it should find that, in the particular case appealed, the peculiar nature of the proposed use, or the exceptional shape or size of the property, or other extraordinary situation or condition, would justify such action.

1137.06 LOCATION AND ACCESS FOR PARKING AND LOADING AREAS

All off-street parking and loading areas shall meet the following provisions unless otherwise provided for in other sections of this Ordinance.

A. Located on Same Lot

Parking spaces shall be located on the same lot as the principal use they serve unless the spaces meet the requirements of Subsection 1137.08 (L)(2) (Shared or Off-Site Parking).

B. Width of Access Points

1. In single-family residential zones, no access point width shall be less than nine feet, nor more than 20 feet at the right-of-way line, nor more than thirty 30 feet at curb line.
2. In all other zones, access point widths shall not exceed 12 feet, or more than 36 feet in width at right-of-way line, or more than 48 feet at curb line.
3. The Planning Commission may modify (enlarge or reduce) the width to provide for a more efficient and safe channelization and/or flow of traffic during the site plan review process.

C. Single-Family and Two-Family Dwellings

For single-family and two-family dwellings, off-street parking may be permitted in driveways of the front (not to exceed greater than 50% of the lot frontage and/or front yard), side, and rear yards of permitted uses in these districts, provided all requirements of this Ordinance are met.

D. Multi-Family Dwellings

1. Off-street parking may be permitted in the front of the building (not to exceed more than one drive aisle with parking on each side), side or rear yards of permitted multi-family dwellings provided that off-street parking facilities shall be set back a minimum of fifteen feet from all lot lines in addition to the access setback established in Section 1137.13 (Access Control).
2. The Planning Commission may restrict the location of off-street parking facilities if it determines that such action is needed to properly integrate the development into the surrounding area.

E. Nonresidential Uses

1. Unless otherwise prohibited, off-street parking may be permitted in the front, side or rear yards of permitted nonresidential uses provided that off-street parking facilities shall be set back a minimum of ten feet from the side and rear lot lines in addition to the access setback established in Section 1137.13 (Access Control). Off-street parking may be permitted a minimum of zero feet from the side and rear lot lines where shared parking facilities are integrated into the development. Where applicable, there shall be a ten-foot buffer yard installed to delineate the property boundaries.

2. Parking lots shall be located, to the maximum extent feasible, to the rear and side of buildings in nonresidential districts. No more than one drive aisle with off-street parking on each side of the aisle may be permitted in front of the building.
 3. The Planning Commission may restrict the location of off-street parking facilities if it determines that such action is needed to properly integrate the development into the surrounding area.
- F. Parking shall be prohibited in the front yard in the B1 District with the exception of residential dwelling units where parking may be permitted on an approved driveway.
- G. Parking areas shall be set back from the edge of buildings a minimum of four feet to provide for sidewalk and landscape treatments in front of the building. See Figure 11.
- H. There shall be a minimum fifteen-foot streetscape buffer yard beginning at the right-of-way line of any street. The area within such buffer yard shall be landscaped in accordance with Chapter 1138 (Landscaping and Buffering) and maintained in good condition.



Figure 11: This photograph illustrates how the building setback allows for both a sidewalk and landscaping.

1137.07 WALKWAY CONNECTIONS TO PUBLIC SIDEWALKS

- A. Where a sidewalk exists in a public right-of-way adjacent to the site or is required to be constructed as part of the development approval, a pedestrian connection shall be constructed from the building to the sidewalk.
- B. The pedestrian connection may be created as part of a driveway or parking area provided that it is delineated with a minimum of a painted line and the portion utilized for vehicular traffic is not reduced from the minimum width requirements.
- C. Standalone pedestrian connections shall be constructed of concrete or of hard surface pavers.
- D. The pedestrian connection shall have a minimum width of four feet.

1137.08 DESIGN STANDARDS FOR VEHICULAR USE AREAS

The following standards shall apply to the design and construction of off-street parking, loading, and stacking spaces and areas unless otherwise noted.

A. Dimensions

The minimum size of a parking space may be altered based on aisle width and angle of parking. Parking stalls shall conform to the minimum standards set forth in Table 1137-2 and Figure 36.

Table 1137-2: Parking Area Dimensions				
Angle of Parking (degrees)	One-Way Maneuvering Aisle Width (Feet) "A"	Two-Way Maneuvering Aisle Width (Feet) "A"	Parking Stall Width (Feet) "B"	Parking Stall Length (Feet) "C"
0 – Parallel	12	20	9	23
30 – 53	13	20	10	18
54 – 75	18	22	10	18
76 – 90	22	22	9	18

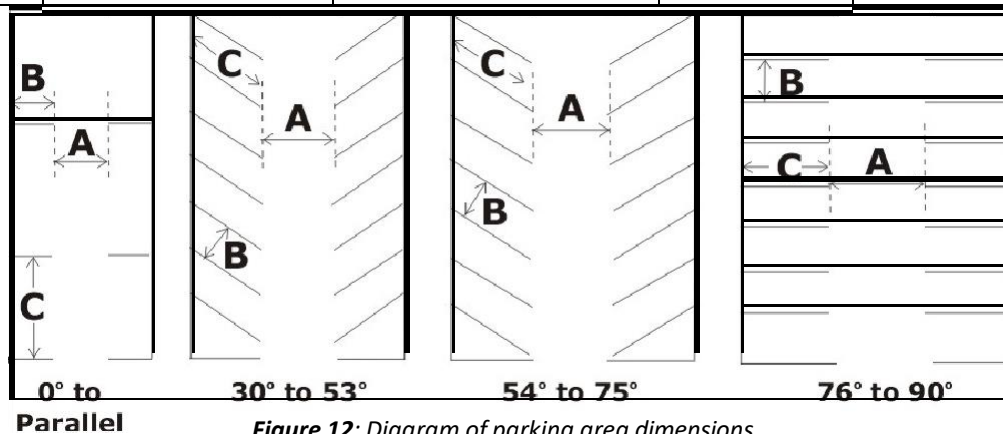


Figure 12: Diagram of parking area dimensions.

B. Access to Parking and Loading Areas

- Each required off-street parking or loading space shall be connected with a deeded public right-of-way by means of aisles or access drives designed in accordance with the requirements of Section 1137.13 (Access Control).
- Except for single-family and two-family dwellings, all parking areas shall be so designed to ensure that all maneuvering into and out of each parking space shall take place entirely within property lines of lots, garages, and/or storage areas, and spaces shall not be designed in a manner which allows or requires vehicles to back into the public right-of-way to leave a parking space.

3. Parking spaces shall not be located along entry drives within 30 feet of the right-of-way (See Figure 13).
4. To the maximum extent feasible, provisions for primary access along secondary streets shall be provided to minimize traffic congestion on primary arterial streets.
5. Curb definitions shall be maintained, prohibiting continuous access along the frontage of a site.

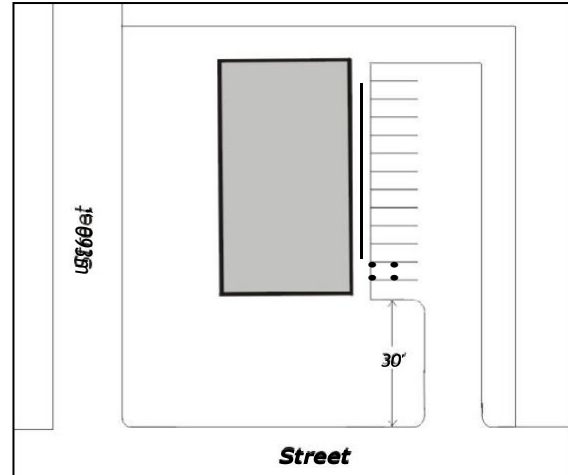


Figure 13: Parking spaces with direct access to an entry drive shall not be located within 30 feet of the street to minimize traffic congestion.

C. Paving of Parking and Loading Areas

1. All new off-street parking and loading areas shall be paved with asphalt, concrete, or paver type material.
2. Other hard surfaced materials may be approved by the Planning Commission provided the commission finds that such surface allows clear identification of spaces, directional flow, access points, and the like and provided further that the surface is not of gravel or other such material which accumulate in the Village's storm drainage facilities.
3. Pavers or porous pavement systems that allow for stormwater drainage to pass through may be permitted if approved by the Village Zoning Department.
4. The Village Zoning Department may approve gravel parking and circulation areas for uses in the Industrial Districts, if the owner/developer demonstrates that hard- surface pavement is impractical for the proposed use. All such gravel areas shall be located in the side or rear yard, accessed by a paved drive to assure that gravel is not carried onto public streets or storm sewers. Gravel area located in the side yard shall be screened in accordance with landscape buffer requirements in Chapter 1138. The owner/developer must also submit a plan for gravel dust and erosion control measures with the site plan.

D. Maneuverability Areas

The following provisions shall be followed to maintain efficient maneuverability:

1. Turn Around Area

Where more than three parking spaces are served by a single driveway in a nonresidential district or the R-1 or R-2 District, a turnaround area shall be provided, or other provisions made, to permit cars to exit the parking lot without backing onto any street or sidewalk. See maneuvering aisle widths in Table 1137-2 and Figure 12.

2. Back-Up Area

Each parking space shall be provided with a sufficient back-up area so as to permit egress in one maneuver, consisting of one backward and forward movement. See maneuvering aisle widths in Table 1137-2 and Figure 12.

E. Continuous Curbs

1. Continuous curbs shall be made of concrete, stone, or other similar material and shall have a minimum height of six inches and a minimum width of six inches. They shall form a non-interrupted edge around all landscaped areas adjacent to parking and maneuverability areas.
2. Continuous curbs shall be located a minimum of four feet from any structures, buildings, or walls to prevent a vehicle from hitting any structure at the edge of a parking area. (See Figure 14).

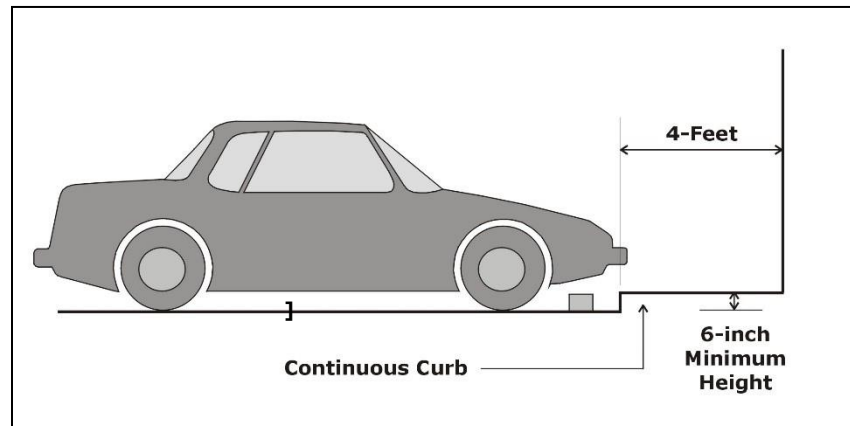


Figure 14: Continuous curbs shall be located four feet from any building wall.

3. Continuous curbs shall be required on the outside of vehicular use areas and landscaped islands in all multi-family and business districts.

F. Wheel Stops

1. Each wheel stop shall be a singular block of reinforced concrete, stone or other durable material with a minimum height of six inches, a minimum width of six inches and a minimum length of eight feet. Wheel stops are to be securely attached to the ground and may be used only at the end of parking stalls. (See Figure 15).

CHAPTER 1137: PARKING, LOADING, AND ACCESS CONTROL

2. Wheel stops shall be located so as to provide a minimum of two feet from any structures, buildings, walls, or plant material to prevent a vehicle from driving onto the landscaped area or hitting any structure at the edge of a parking area (See Figure 15).

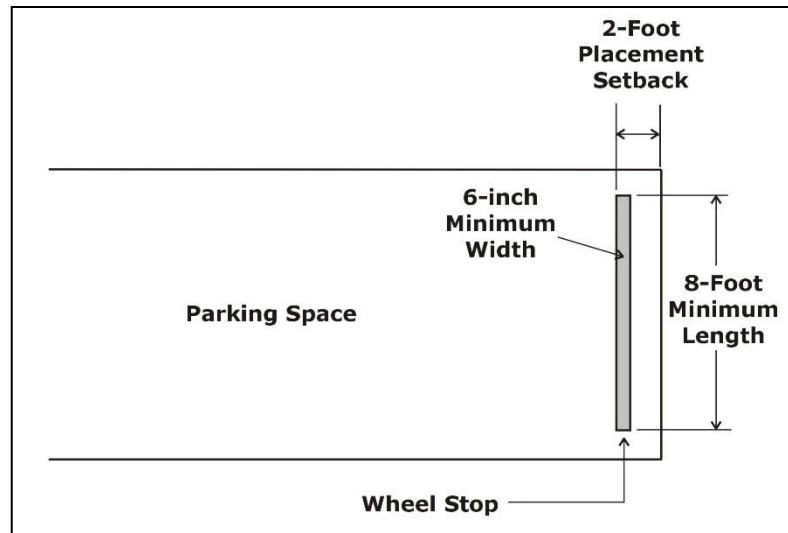


Figure 15: Illustration of wheel stop placement.

- G. **Drainage**
All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways.
- H. **Striping**
All parking areas with a capacity of over six vehicles shall be striped between stalls to facilitate the movement into and out of the parking stalls.
- I. **Parking Requirements for Physically Disabled**
Applicants shall provide parking spaces for the physically disabled as required by the Ohio Building Code and shall include all necessary markings, striping, and signage.
- J. **Fire Code**
All parking and loading plans shall conform to all requirements set forth in the fire code as adopted by the Village of Batavia and as approved by the Batavia Fire Department.
- K. **Maintenance of Parking Areas**
The owner of property used for parking and/or loading shall maintain such area in good condition, without holes and free of all dust, trash, and other debris.
- L. **Alternative Parking**
The following are three methods of accommodating parking as an alternative to constructing an adequate number of parking spaces on an individual lot.
 1. **Shadow Parking**
A portion of the required parking spaces may remain landscaped and unpaved or paved with pervious pavers provided that the parking and unpaved areas complies with the following standards and is authorized in accordance with Subsection 1137.05 (B) (Modification of Required Number of Spaces).
 - a. The parking plan submitted with the zoning permit or site plan review application shall denote the location and layout of that portion of the parking area that currently is no longer deemed required. The plan shall indicate that the “shadow” parking spaces will be constructed according to this Ordinance in the event that the Village Zoning Department makes a finding, at any time, that all or any portion of this parking is necessary.

- b. At no time shall any portion of the required parking area that is so designated for future construction be used for the construction of any structure or paved surface with the exception that pervious pavers may be used to provide temporary parking provided that the pavers allow for grass and other vegetation to grow through the material.
- c. At no time shall any portion of the required parking or loading area that is so designated for future construction as provided herein be counted as open space or other non-paved areas required by other provisions of this Ordinance.
- d. The owner shall initiate construction of the approved "future" parking area, as identified on the approved parking and loading plan, within three months of the receipt of a certified letter or a letter through normal postal service (in the event that the certified letter is not accepted) sent to the owner of record from the Village Zoning Department, identifying that such parking is determined to be necessary.

2. Shared or Off-Site Parking

A portion of the required parking spaces may be located on an adjacent or nearby property if the parking area complies with the following standards and is authorized in accordance with Subsection 1137.05 (B) (Modification of Required Number of Spaces).

- a. Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities.
- b. Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking facility.
- c. Shared or off-site parking shall not be permitted on a vacant lot in a residential zoning district unless permitted by the planning commission as part of site plan approval.
- d. Shared or off-site parking areas shall adhere to the regulations of the same or a more intensive zoning classification than that required for the use served.
- e. In the event that a shared or off-site parking area is not under the same ownership as the principal use served, a written parking agreement shall be required.
- f. No shared or off-site parking space shall be located more than 500 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk. This distance may be waived by the planning commission.
- g. The applicant shall have the burden of proof for reduction of the total number of parking spaces and shall document and submit information substantiating their request. Shared or off-site parking may be approved if:
 - i. A sufficient number of spaces is provided to meet the highest demand of the participating uses;
 - ii. Evidence has been submitted by the parties operating the shared parking facility, to the satisfaction of the Village Zoning Department, documenting the nature of uses and the times when the individual uses will operate so as to demonstrate the lack of potential conflict between them.
 - iii. Shared or off-site parking shall not account for more than 75 percent of the required parking spaces as established in Section 1137.05 (Off-Street Parking Space Requirements).

- iv. The Planning Commission shall review and approve all shared or off-site parking facility plans, and may place such conditions upon such plans as it deems necessary to insure that adequate off-street parking spaces will be provided for all involved uses. Any violations of these conditions will nullify the approved shared parking facilities plan and shall be deemed a violation of this Ordinance.
- v. Any change in use of the activities served by a shared or off-site parking facility will be deemed an amendment to the shared or off-site parking facility plan and will require Planning Commission review and approval.

1137.09 STACKING SPACE REQUIREMENTS

Vehicle stacking spaces for drive through facilities shall be provided according to the following provisions:

A. Minimum Number of Stacking Spaces

The number of required stacking spaces shall be as provided for in Table 1137-3.

Table 1137-3: Stacking Space Requirements		
Activity	Minimum Stacking Spaces (per lane)	Measured From:
Financial Institution or Automated Teller Machine (ATM)	3	Teller or Window
Restaurant	7	Pick-Up Window
Full Service Automotive Wash	7	Washing Bay
Self-Service Automotive Wash	2	Washing Bay
Fuel or Gasoline Pump Island	2	Pump Island
Other	As determined by the Village Zoning Department *	
* Any other use shall be required to document proof that the provided number and location of stacking spaces are adequate to meet the purpose of this chapter as set forth in Section 1137.01 (Purpose).		

C. Design and Layout

1. Washing bays in a car wash shall not count toward the stacking space requirement.
2. Pump spaces can count toward the stacking space requirement.
3. Stacking spaces shall be a minimum of 10 feet by 20 feet in size.
4. Stacking spaces shall not impede on- or off-site traffic movements or movements in or out of off-street parking spaces.
5. Stacking spaces shall be separated from other internal driveways by surface markings or raised medians.
6. These stacking space requirements shall be in addition to the off-street parking space requirements.

1137.10 LOADING SPACES

A. Loading and Unloading Plan Required

Plans for all loading and/or unloading facilities shall be submitted to the Village Zoning Department for review and for compliance with the provisions of this Ordinance and such other pertinent ordinances of the Village of Batavia. Such plans shall show the number and location of loading and/or unloading spaces, including necessary maneuvering of trucks and dock and apron approach, and arrangements of access aisles, location of access points onto adjacent streets, provisions for truck circulation, location of curbs on or adjacent to the property, utilities, location of signs, typical cross-sections of pavement, including base and sub-base, proposed grade of lot, storm drainage facilities, location and type of lighting facilities and such other information or plans as the circumstances may warrant. Where such loading and/or unloading plans include provisions for access points to adjacent streets, then such plans shall also be prepared in accordance with the requirements of Section 1137.13 (Access Control). A separate loading and/or unloading plan is not required if such plan is incorporated in the parking plan, as part of site plan review.

B. General Requirements

1. Number of Spaces Required

Every building or part thereof, erected and occupied for uses permitted in commercial and industrial zones, including "conditional uses" permitted in residential zones, involving the receipt or distribution of vehicles, materials, or merchandise and having up to 5,000 square feet of gross floor area shall be provided with at least one off-street loading and/or unloading space. One additional off-street loading and/or unloading space shall be provided for each additional 50,000 square feet, or fraction thereof, of gross floor area.

2. Additional Spaces Required

Whenever the intensity of any use of a building or premises is increased through addition of gross floor area, change of use or increased activity, additional loading and/or unloading spaces shall be provided in accordance with the requirements of this section if the Village Zoning Department determines that the existing spaces are not adequate to serve such increase in intensity.

3. Location Spaces

- a. All loading and/or unloading spaces shall be located on the same lot as the use served. However, permitted uses located in industrial zones may provide parking areas for the storage of trucks waiting to be loaded and/or unloaded within 300 feet from each lot served, providing that such off-street storage of trucks is unable to be provided on the same lot or contiguous to the same lot as the use being served and further provided that such storage of trucks is located in the same zone as the use being served. Loading and/or unloading areas may be located in the side and minimum required rear yards, provided that all loading and/or unloading facilities shall be set back a minimum of ten feet from the rear lot line and minimum side yard clearances are maintained.
- b. Entrances, exits, or driveways shall not be computed as any part of a required loading and/or unloading space.

C. Design and Layout

1. Size of Space

Each off-street loading and/or unloading space shall be at least 14 feet in width and at least 60 feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least 15 feet; provided, however, that when it is demonstrated that a particular loading and/or unloading space will be used by shorter trucks, the Village Zoning Department may reduce the minimum length to not less than 35 feet.

2. Access

- a. Each required off-street loading and/or unloading space shall be designed with direct access via an approved access drive, to a deeded right-of-way which offers efficient ingress, egress, and safety for trucks. Access drives or aisles shall be laid out with a width of at least 12 feet for one-way circulation and at least 22 feet for two-way circulation.
- b. Off-street loading and/or unloading space shall be designed and constructed so that all maneuvering for loading and or unloading can take place entirely within the property lines of the premises being served. Such off-street loading and/or unloading space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk or street.
- c. Docks are to be designed to facilitate efficient loading and/or unloading. Platform heights should be 44 inches for light pickup and delivery trucks and 48—52 inches for heavy trucks and trailers. The dock area should be at least twice the total body floor area of the largest number of trucks that can be docked at one time. Minimum dock overhead clearance (including pipes, lights, and the like) should be 12 feet.
- d. All off-street loading and/or unloading areas, including spaces, maneuvering, and storage areas for truck parking shall be paved with asphalt concrete or Portland cement concrete.
- e. Any loading and/or unloading area which is intended to be used during non-daylight hours shall be properly illuminated to avoid accidents and shall be subject to the lighting standards established in Section 1135.12 (Outdoor Lighting).
- f. All loading and/or unloading areas including storage of parked trucks, shall be effectively screened on each side adjoining or fronting on any property situated in a residential zone as regulated by Chapter 1138 (Landscaping and Buffering). Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

1137.11 PARKING AND STORAGE OF RECREATIONAL VEHICLES, INOPERABLE VEHICLES, AND OTHER

- A. No vehicle, including recreational vehicles, shall be parked on grass or other landscaped areas including, but not limited to, mulch, dirt and etc.
- B. No vehicle which is abandoned, inoperable, or lacking a valid license shall be stored in any zone, unless it is in a completely enclosed building.
- C. In all districts, where not specifically permitted, the repairing, rebuilding, dismantling, or storage of any inoperable vehicle shall be permitted only within a completely enclosed building.
- D. Except as specifically provided herein, it shall be unlawful for any person(s) to live in any boat, automobile, camper, recreational vehicle, or truck, within the Village of Batavia.
- E. The outside storage in excess of 72 hours of any trailer, recreational vehicle, camper, boat, utility trailer, or similar type equipment shall be restricted to the rear yard of all lots, except as herein provided. In cases where, due to unique conditions, topographic or other, which do not allow use of the rear yard, the BZA may permit such storage to be located in the side yard of the lot following review and approval by such board. The board may impose certain requirements to ensure that such vehicle and related equipment is properly screened from view of adjacent property. In no case shall more than one of the aforementioned vehicles or similar type equipment be permitted outside of an enclosed building on any lot or parcel of land.

- F. Except for vehicles used in conjunction with a lawfully non-conforming commercial or industrial operation, where the vehicles are stored on the site of such operation, any property which does not comply with the provisions of Section 1137.11 (A) and (B) at the time of adoption of this Ordinance, shall be given a period of 60 days from the date of adoption of this Ordinance to comply with all of the provisions of this section. Further, any property which does not comply with the provisions of Section 1137.11 (C) of this Ordinance at the time of its adoption shall be given a period of six months from the date of adoption of this Ordinance to comply with all of the provisions of these sections.

1137.12 VISION CLEARANCE TRIANGLE

Except as herein provided, no fence, wall, hedge, or other obstruction between three and ten feet, as measured above the curb level, shall be erected, placed, maintained, or continued in any zone within that triangular portion of a corner lot which violates the Ohio Manual of Uniform Traffic Control Devices, dealing with sight distance. No type of tree or planting or other obstruction shall be planted, placed, maintained, or continued in such a manner which would obstruct the vision clearance at corners and railroad crossings.

1137.13 ACCESS CONTROL

A. Applicability

These requirements shall apply to all arterial and collector type streets, as identified in the Village's thoroughfare plan.

B. Review of Access Control

In reviewing site plans which involve the creation, or substantially increased utilization of, access points onto arterial and collector streets, the Planning Commission shall, after administration review and recommendation, require the following:

1. Provision of Reserved Turning Lanes

At those access points where the Planning Commission determines that vehicles turning to and from the arterial and collector streets will have a substantially negative effect on the roadway capacity, reserved turn lanes shall be constructed by the developer.

2. Provision of Frontage Road

When deemed needed and feasible, after Administration review and recommendation, the Planning Commission, may require the construction of a frontage road. However, access to the arterial or collector streets via an intersecting street or a common driveway shall be investigated if such a design is not reasonable.

C. Location of Access Points

1. Arterial Streets

- a. Access points on arterial streets shall be spaced a minimum distance of 500 feet apart. Turning restrictions and/or reserved turn lanes may be required when determined necessary by the Planning Commission after review and recommendation from the administration or a traffic impact study.
- b. One access point per existing tract will be permitted; however, if the spacing requirements for a direct access point onto an arterial street (as provided in Subsection 1137.13 (C)(1)(a) above) cannot be met, then an access point may be located on a frontage road or on an intersecting local street, or share a common driveway that meets the spacing requirements. In order for the intersecting local street or frontage road to function properly, access onto them shall be located a minimum distance of 150 feet, measured from point of curb return to point of curb return, from the arterial street.

- c. Where the frontage of a tract is greater than 500 feet additional access points may be permitted. The type of turning movements permitted from such access points may be restricted by the Planning Commission in accordance with division Subsection 1137.13 (C)(1)(a) of this section.
- d. If an existing tract of land has no means of access that would meet the requirements of this section, one access point shall be provided.

2. Collector Streets

- a. On two lane roadways, one access point per existing tract will be allowed; however, if the frontage is greater than 400 feet, turning restrictions and/or reserved turn lanes may be required when determined necessary by the Planning Commission after review and recommendation from the administration or a traffic impact study. An additional access point may be permitted. Furthermore, the minimum spacing between adjacent access points on this type of facility shall be 100 feet, measured from point of curb return to point of curb return, except in the case where the collector intersects another collector street or any arterial street, in which case such access points shall be spaced a minimum of 100 feet from the intersection, unless determined by the planning commission that a greater distance from the intersection shall be required based on traffic flow and usage.
- b. If a tract of land has no means of access that would meet the requirements of this section, one access point shall be provided.

D. Exceptions to Access Point Requirements

Where situations develop that may require special treatment, the requirements as provided in section may be waived provided that the Planning Commission, based on staff recommendation, determines that the special treatment will have no adverse effects on the roadway safety and capacity.

E. Approval of Access Points Required

Plans for all access points and modifications thereto, (including plans to use existing access points where a change of use for any tract of land would generate more traffic than the previous use, thus producing an adverse effect on the adjacent roadway) shall be submitted to the Village Zoning Department in a form and number as established by the department. A separate access plan will not be required if such access points are being located on plans, in conjunction with off-street parking or loading and/or unloading facilities, in accordance with this chapter or as part of a site plan review.

CHAPTER 1138: LANDSCAPING AND BUFFERING

1138.01 PURPOSE

- A. The purpose of this chapter is to protect and promote the public health, safety, general welfare, and beautification of Batavia through the Village's authority to regulate land use in a method that utilizes the benefits of landscaping. Specifically, it is the purpose of this chapter to:
 - 1. Buffer uncomplimentary and incompatible land uses;
 - 2. Assist in controlling traffic to, from, and within off-street parking facilities;
 - 3. Aid in noise, glare and heat abatement;
 - 4. Contribute to the process of air purification, ground water recharge, and control of ground water runoff; and
 - 5. Encourage efforts to preserve large trees, natural wet lands, and/or other outstanding natural features.
- B. It is the specific intent of this chapter to require the installation and maintenance of buffering between residential uses of land and nonresidential uses; to require the installation and maintenance of landscaping around the perimeter of and within off-street parking facilities and other vehicular use areas outside of public right-of-way, and to require the planting of street trees in an effort to foster community wide reforestation. It is not intended by this chapter that a business should screen its sign from public view, but incorporate and accentuate the sign through the use of landscaping. Any business which normally displays its product outdoors (e.g. automobile dealerships, lumber yards, produce stands, garden centers, etc.) should enhance its product through the use of landscaping.

1138.02 COMPLIANCE AND MAINTENANCE REQUIRED

- A. Whenever any property is affected by these landscape requirements, the property owner or developer shall prepare and submit a landscape plan to the Village Zoning Department in a form and number as established by the department and Section 1132.04 (Common Review Requirements).
- B. Where landscaping is required, no building permit shall be issued until the required landscaping portion of the site plan or zoning permit application has been submitted and approved.
- C. All required landscaping and buffering shall be installed prior to issuance of a Zoning Certificate of Occupancy. If weather conditions necessitate a delay in installation of landscaping, a Zoning Certificate of Occupancy may be issued only if collateral is filed with the Village in an amount designated by the Village Zoning Department, along with a schedule of completion, and a development agreement. The amount of the collateral will reflect one-hundred-twenty-five percent (125%) of the estimated cost of purchasing and installing the landscaping.
- D. Initial maintenance of all landscaping is the responsibility of the builder/developer, but may be assumed by the owner/occupant on the date of occupancy. If so, a written agreement between the builder/developer and owner/occupant shall be made, and a copy filed with the Village. The agreement shall delineate the responsibility for continuous maintenance and the replacement of all unhealthy or dead plant material during the first two years of occupancy.

1138.03 GENERAL LANDSCAPING MATERIAL STANDARDS

Landscape materials should complement the form of the existing trees, plantings, and vegetation as well as the development's general design and architecture. The amount of shade or sun should be considered in selecting plant materials. Landscape materials shall consist of the following:

A. Plants

Artificial plants are prohibited. All plant materials shall be living plants and shall meet the following requirements:

1. Quality

- a. Plant materials used to comply with this chapter shall be grown under climatic conditions similar to those in southwestern Ohio and shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1, as amended). Plant material shall be of standard quality or better, true to name and type of species or variety.
- b. Plants shall be free of disease, insects and/or damage, and shall be correctly labeled indicating genus, species and cultivar. No label shall be removed until after the final inspection by the Village is completed.
- c. All trees and shrubs must be transported to/within the Village from the nursery or holding area in a covered fashion to prevent wind damage.
- d. The critical root zone area of all plants will have topsoil to a depth of at least eight inches at planting.
- e. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than 15 feet to such public works.

2. Existing Vegetation

Existing healthy, well-formed canopy and understory trees as well as healthy shrubs shall be credited toward the requirements of this section, provided the vegetation is protected before and during development of the site and maintained thereafter in a healthy growing condition and meets the applicable regulation.

3. Tree Installation

- a. New trees shall be properly planted in accordance with recommended planting procedures by the International Society of Arboriculture. See Figure 26 and the following instructions.
- b. Minimum procedures
 - i. All ropes and ties shall be removed from around the tree and root ball.
 - ii. Remove at a minimum the top half of the wire basket.
 - iii. Cut any burlap away from at least the top half of the root ball.
 - iv. Dig a shallow, broad planting hole that where room allows, is as much as 3 times the diameter of the root ball, but only as deep as the root ball.
 - v. Identify the trunk flare that should be partially visible after the tree has been planted.
 - vi. Place tree at the proper height and set root ball on firmly packed soil to prevent settling.
 - vii. Straighten the tree and then fill the hole, gently but firmly, using water to settle the soil around the root ball.
 - viii. Stake the tree, if necessary, using two opposing, flexible ties.
 - ix. Mulch the base of the tree using a two to four inch layer of mulch, keeping mulch two inches from trunk of tree.

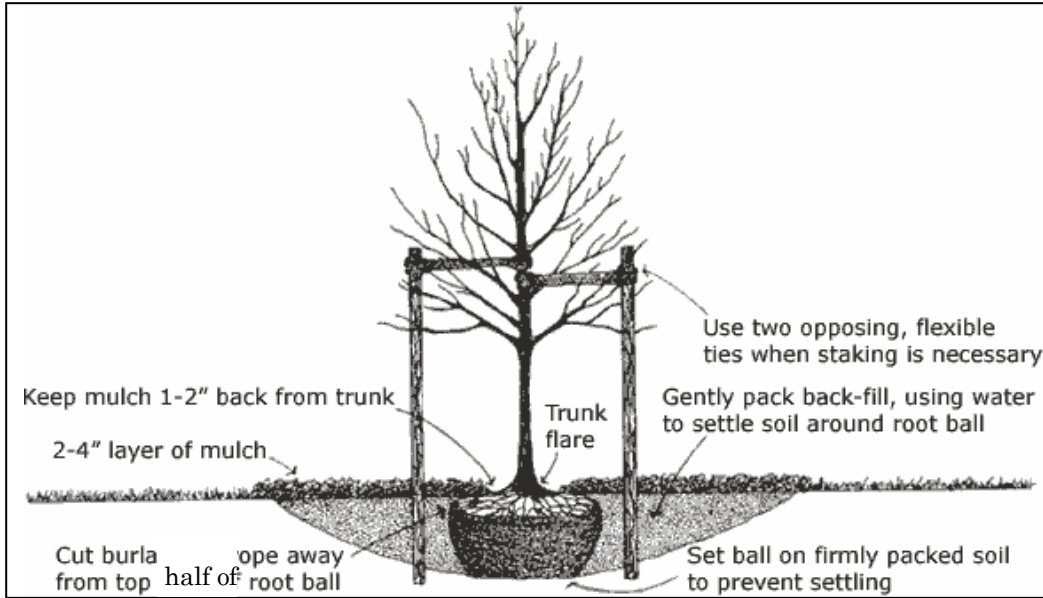


Figure 16: Illustration of proper planting techniques.

4. Species Variety

To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the standards of Table 1138-1:

Table 1138-1: Species Variety	
Number of Trees Required on Site	Maximum Percentage of Trees that may be a Single Species
1-19	50%
20-39	33%
40 or more	25%

5. Vegetation Size and Quality Requirements

- Deciduous canopy or shade trees shall have a minimum DBH of 2 inches at the time of planting. Multi-stem varieties shall be a minimum of six feet in height above ground level at the time of planting.
- Understory, small maturing, or ornamental trees shall have a minimum DBH of 1 ¾ inches at time of planting. Multi-stem varieties shall be a minimum of four feet in height above ground level at the time of planting.
- Evergreen trees shall be a minimum of six feet in height at the time of planting.
- Shrubs or hedges which are upright in nature shall be a minimum of two feet tall in height at the time of planting. Shrubs or hedges which are spreading in nature shall be a minimum of 15 inches in height at the time of planting. All shrubs and hedges shall attain proper height within four years after planting.
- Vines, which are generally used in conjunction with walls or fences, shall be at least twelve inches tall at planting.
- Grass shall be planted in species normally grown as permanent lawns in southwestern Ohio, and may be sodded or seeded; except in swales or other areas subject to erosion

where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover shall be planted in such a manner as to present a finished appearance and 75 percent of complete coverage after one complete growing season, with a maximum of 12 inches on center. In certain cases, ground cover may also consist of decorative rocks, pebbles, sand, or similar materials, as approved by Planning Commission.

- g. The ground surface for grass areas shall be prepared with a minimum of three inches of quality topsoil prior to sod and/or seed installation.

6. Approved and Prohibited Plant Types

A list of approved and prohibited plant types are provided in Appendix A. Chapter 907 of the codified ordinances contains additional requirements.

7. Plantings in Easements

Nothing except shrubs or groundcover shall be planted or installed within any underground or overhead utility, drainage, or gas easement without the written consent of the utility provider, easement holder, or the Village.

B. Hydrazone and Ease of Maintenance Considerations

Landscape planners should consider grouping materials of similar water and maintenance requirements.

C. Earth Mounds

1. Earth mounds shall be physical barriers which block or screen the view similar to a hedge, fence or wall.
2. Mounds shall be constructed with proper and adequate plant material to prevent erosion. Where vegetative and/or topographic conditions that provide a natural buffer/screen exist prior to development, additional screening may not be required provided that maintenance provisions are approved by the Planning Commission.
3. Where mounds are to be mowed, the maximum permitted slope is 3:1.
4. Illustrations of earth mound or berm types are located in Appendix B.

D. Walls and Fences

Walls and fences shall comply with the existing wall and fence provisions of this Ordinance, for any proposed new building, residential or otherwise.

1138.04 LANDSCAPE MAINTENANCE AND INSTALLATION REQUIREMENTS

- A. All landscape materials shall be installed with accepted good construction and planting procedures. The owner of the property shall be responsible for the continued maintenance of all landscaping materials planted or placed to fulfill the requirements of this chapter and shall keep them in a proper, neat and orderly appearance, free from noxious weeds, overgrowth, refuse and debris at all times.
- B. All unhealthy or dead plant material shall be removed or replaced by the next planting period, while other defective landscape material shall be replaced or repaired within three months. Violation of these installation and maintenance requirements shall be grounds for the Village to refuse a building occupancy permit, proceed with taking of the posted bond or letter of credit, and/or institute enforcement procedures listed in Chapter 1141 (Enforcement and Penalties).
- C. Landscaping materials used to fulfill the requirements of this ordinance may not be topped or otherwise treated so as to reduce overall height or level of height required. Landscape materials are intended to grow, spread and mature over time. Pruning and other inhibiting measures,

including removal, may only be practiced to ensure public safety, including overgrowth over sidewalks and streets, to maintain a neat and attractive appearance, and to preserve the relative health of the material involved.

1138.05 OVERALL SITE LANDSCAPING REQUIREMENTS

A. General

Site landscaping, for the purpose of this section shall include all landscape on a site except for landscaping in vehicular use areas required in Section 1138.06 (Vehicular Use Area Landscaping).

B. Purpose

Site landscaping material is intended to soften the visual impact of building foundations and provide for the even dispersal of trees across a development site.

C. Site Landscaping Standards

1. The standards of this section shall apply to all development within the Village.
2. Site landscaping shall be supplied in the amounts identified in Table 1138-2.
3. Site landscaping shall meet the minimum size standards for new planting specified in Section 1138.03 (General Landscaping Material Standards).
4. Placement: Required shrubs shall be placed around the building perimeter, a minimum of five feet from the building, with emphasis placed on building foundations visible from public right-of-way.

Table 1138-2: Required Site Landscaping Plantings

Zoning District or Use	Required Plantings per Site [1][2][3]
E-R	Two (2) canopy trees and four (4) shrubs per dwelling unit [4] [6]
R-1 and R-2	Two 2 canopy trees + at least 5 shrubs per dwelling unit, per lot [5] [6]
B1 and B2	Six (6) canopy trees per acre and two and a half (2.5) shrubs and three (3) perennials per each ten (10) feet of outer0000 building perimeter visible from ROW [5][7].
IO	Six (6) canopy trees per acre and two and a half (2.5) shrubs per each ten (10) feet of outer building perimeter visible from ROW [5]

NOTES:

[1] At least one-half of the required shrubs shall be of an evergreen variety.

[2] Evergreen trees may be required instead of a canopy tree by the Planning Commission on sites where increased buffering is necessary due to impacts on adjacent uses.

[3] Plant materials shall be installed prior to the issuance of a zoning certificate of occupancy.

[4] A minimum of one (1) canopy tree shall be planted within the required front yard.

[5] Street trees can count toward the required canopy trees for the site.

[6] For new subdivisions of greater than 15 lots located along arterial or collector roads, a staggered row of canopy trees and/or evergreen trees a minimum of 12 feet on center shall be planted on berms or mounds a minimum of four feet in height along the road frontage.

[7] Additional trees and shrubs may be required by the Village Zoning Department and the Planning Commission in the Industrial-Office District.

1138.06 VEHICULAR USE AREA LANDSCAPING

A. Applicability

The vehicular use area landscaping requirements of this section shall apply to all uses except single-family or two-family dwellings.

B. Irrigation

1. An irrigation system should be provided for all landscaping required for the vehicular use area, including grass areas. Any required site landscaping and/or buffer area landscaping adjacent to the vehicular use area shall be included within the irrigation system.
2. An irrigation system shall not be required if there is an operable outdoor water spigot within 100 feet from the furthest extents of the landscaped areas. In addition, the use of approved xeriscape or drought-resistant plantings within the vehicular use area shall also exempt those areas from the required irrigation system.
3. If an irrigation system is not installed, all trees planted within the vehicular use area shall have irrigation bags installed and maintained for a minimum of two (2) years.
4. The irrigation system shall not be located in the right-of-way unless permitted by the Village Engineer.

C. Interior Landscaping Requirements

1. Landscape Island Requirements
 - a. Landscape islands shall be located at the end of each parking row with a minimum size of 135 square feet for single loaded parking rows, and a minimum size of 270 square feet for double loaded rows (see Figure 17);
 - b. No more than 15 spaces shall be located in a continuous row without being interrupted by a landscaped island. Such landscape islands shall be of the minimum size established in Subsection (a) above (See Figure 17);
 - c. Landscape medians with a minimum width of six feet shall be located to separate every four parallel rows of cars and shall run the full length of the parking row (See Figure 17);
 - d. The landscaped islands should be designed, to the maximum extent feasible, to accommodate stormwater runoff. The use of porous pavement and/or specially designed brick or block is encouraged to increase on-site water detention for plant material and ground water supplies and to reduce problems associated with runoff.
 - e. Landscaped islands shall have a minimum width of six feet at the narrowest dimension.

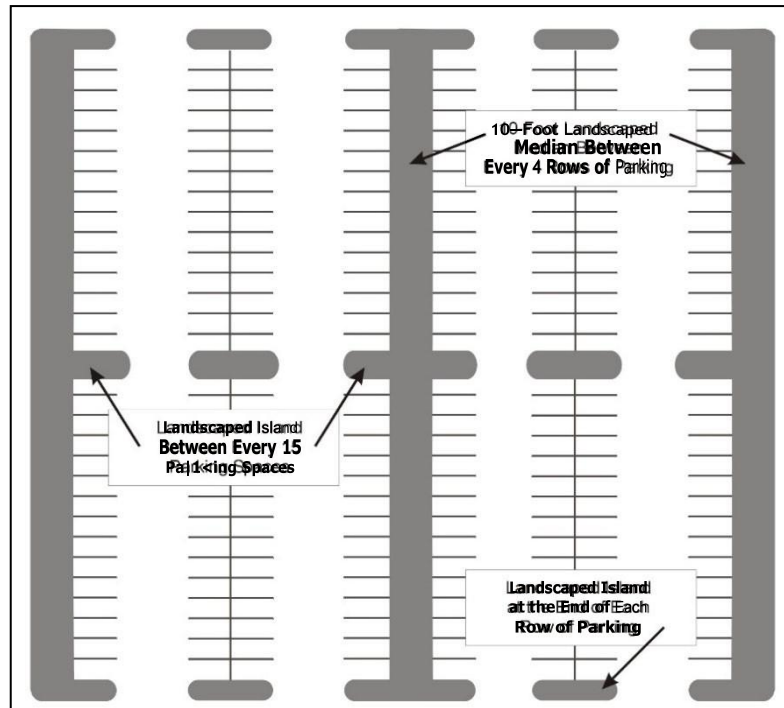


Figure 17: Example of interior landscaping requirement for vehicular use areas.

2. Island Planting Requirements
 - a. Plantings shall meet the minimum plant requirements of Section 1138.03 (General Landscaping Material Standards).
 - b. Plantings shall be provided at a rate of two trees and four shrubs per 15 parking spaces or fraction thereof.
 - c. Each individual landscaped island shall include a minimum of one canopy tree, and two shrubs.
 - d. The landscaped medians required in Subsection 1138.06 (C)(1) shall be planted with one canopy tree every 40 lineal feet.
 - e. The trees and shrubs shall be distributed throughout the parking lot islands to decrease the appearance of a single expanse of pavement and to create a canopy effect.
 - f. The trees should be of a variety to provide the shade canopy and have an unobstructed cross visibility between two and six feet.
 - g. The area not covered by the canopy of the tree, but within an interior landscape area, shall be covered by shrubs, grass, ground cover, landscape gravel, or mulch.
 - h. Trees and shrubs required as part of this section shall be planted in the landscaped islands or required medians.
 - i. The remainder of the island and median area shall be landscaped with appropriate grass or ground cover.

D. Perimeter Landscape Standards

In addition to the interior landscape standards, vehicular use areas shall be screened from view of public streets and adjacent uses in accordance with the following standards:

1. Continuous Visual Screen

Perimeter landscaping for vehicular use areas shall form a continuous visual screen composed of canopy trees, evergreen trees, and shrubs, excluding required sight clearances at driveways and areas needed for ingress and egress.

2. Minimum Standards

- a. Vehicular use areas in all zoning districts except the B1 shall maintain a minimum perimeter planting strip with an average width of six (6) feet as measured from the outer edge of the vehicular use area.
- b. Landscape islands in lawn areas instead of planting strips are encouraged where space is available, so long as a continuous visual screen is provided. This allows areas for parking lot snow removal. Limited mowed lawn areas are permitted to separate landscape islands from islands adjacent to parking areas so long as the visual screen is maintained and the grass separation is a maximum of ten (10) feet.
- c. The planting strip shall contain two continuous rows composed of one row of a mix of 75% evergreen shrubs with a minimum planting height of 15 inches and a row of mixed perennials, ornamental grasses, or blooming shrubs with maximum on-center spacing of four (4) feet.
- d. Up to 50 percent of the plant material shall be deciduous, perennials, or ornamental grasses.
- e. In addition to the required shrubs, the planting strip shall include canopy trees which shall be provided at a rate of two (2) canopy trees per 100 lineal feet of the perimeter of the vehicular use area. Clustering or grouping of these trees is permitted.
- f. Understory trees may be used in areas where the presence of overhead or underground utilities prevents the use of canopy trees.
- g. Trees may be planted in front of, behind, or within the landscape islands, as long as a continuous landscape bed is maintained.
- h. The minimum planting strip width may be reduced to four (4) feet through the provision of an ornamental metal fence or masonry wall constructed in accordance with the following:
 - i. The wall or fence shall have a minimum height of three feet and a maximum height of six feet;
 - ii. A masonry wall shall have a minimum height of 75 percent of the entire wall surface along any single lot line;
 - iii. The wall or fence shall be supplemented with 15-inch high evergreen shrubs planted between the fence or wall and the lot line a minimum of four (4) feet on-center.

3. Perimeter Landscape Standards for the B1 District

- a. Vehicular use areas on lots within the B1 District shall maintain a minimum perimeter planting strip with an average width of four feet as measured from the outer edge of the vehicular use area.
- b. The planting strip shall contain a continuous staggered hedge row composed of evergreen shrubs with a minimum planting height of 15 inches and a maximum on-center spacing of four (4) feet.

- c. The minimum planting strip width may be reduced to a minimum width of three (3) feet if a wall or fence is provided under one of the following options and supplemented with 15-inch high evergreen shrubs planted between the fence and the lot line a minimum of four (4) feet on-center:
 - i. A solid masonry wall with a minimum height of three (3) feet and a maximum height of six feet located around the perimeter of the vehicular use area; or
 - ii. A decorative metal fence with a minimum height of three feet and a maximum height of six feet located around the perimeter of the vehicular use area.
 - 4. Adjacent to Buffers or Streetscape Landscape Areas
 Perimeter landscape strips associated with a vehicular use area shall not be required if the vehicle use area is contiguous to a buffer required as part of Subsection 1138.07 (Buffer Requirements), and the screening intent of this chapter is met.
 - 5. Adjacent to Off-Street Surface Parking on Other Lots
 In cases where two or more off-street surface parking lots are located adjacent to one another, but upon different lots, no perimeter landscape materials shall be required between two parking lots.

1138.07 BUFFER REQUIREMENTS

A. Applicability

- 1. General
 Unless exempted in accordance with Section 1138.07 (A)(2) below, development shall provide a buffer between land uses in accordance with this section. The buffer shall have the width, amount of vegetation, and other features to properly mitigate the negative effects of contiguous incompatible uses.
- 2. Perimeter Buffer Exemptions
 Development in the following districts shall be exempted from the standards of this section.
 - a. The B1 District; and
 - b. Development within a PUD Development subject to an approved concept and regulating plan.

B. Location

- 1. Location
 - a. Buffer areas shall be located between the uses for which they are required to buffer or screen.
 - b. When the same property owner owns and is developing adjoining parcels, the required buffer area may be placed on either parcel or astride the boundary.
 - c. When a different property owner owns the adjacent property, the buffer area shall be placed on the property being developed. However, a buffer that meets the requirement of both parcels may be placed astride the boundary if a written agreement, signed by both owners, is filed with the Planning Commission and is recorded with the Clermont County Recorder's Office to run with the property as a covenant.
- 2. Structures
 No structure shall be permitted within a required buffer other than a wall, fence, or earth berm. Parking areas and driveways shall not encroach upon buffer areas.

C. Minimum Required Buffer Area

Table 1138-3 sets forth the minimum required buffer area based upon the adjacent land uses. The abbreviations used in the table are described as follows:

1. Moderate Buffer Area

An "A" in a cell indicates a moderate buffer area is required with a minimum width of ten feet.

2. Average Buffer Area

A "B" in a cell indicates an average buffer area is required with a minimum width of 15 feet.

3. Substantial Buffer Area

A "C" in a cell indicates a substantial buffer area is required with a minimum width of 20 feet.

4. Major Buffer Area

A "D" in a cell indicates a major buffer area is required with a minimum width of 40 feet.

5. No Buffer Area Required

An "N" in a cell indicates that there is no minimum buffer area required.

Table 1138-3: Required Buffer Areas

Table 1138-3: Required Buffer Areas							
Proposed Use	Single- or Two-Family Dwellings	Multi-Family Dwelling	Public/ Institutional Uses	Office or Commercial Uses		Fully Enclosed Industrial Uses (20,000 sq. ft. or less)	All Other Industrial Uses
				(Less than 10,000 sq. ft.)	(10,000 sq. ft. or more)		
Adjacent to:							
Single- or Two-Family Dwellings	N	A	A	B	C	C	D
Multi-Family Dwellings	A	N	A	A	B	C	D
Public/Institutional Uses	A	A	N	B	B	B	C
Office or Commercial Uses (< 10,000 S.F.)	B	A	B	N	A	B	D
Office or Commercial Uses (>=/ >10,000 S.F.)	C	B	B	A	N	B	C
Fully Enclosed Industrial Uses (=/< 20,000 S.F.)	C	C	B	B	B	N	C
All Other Industrial Uses	D	D	C	D	C	C	N

D. Minimum Planting Requirements

For every 100 lineal feet of a buffer area, the following number of plants shall be provided for each required buffer area as set forth in Table 1138-4:

Table 1138-4: Minimum Planting Requirements			
Required Buffer Area	Minimum Trees (Deciduous or Ornamental) per 100 lineal feet	Minimum Evergreen Trees per 100 lineal feet	Minimum Shrubs per 100 lineal feet
"A"	3	None	-
"B"	6	3	-
"C"	10	8	-
"D"	10	10	-

E. Alternative Buffer Area Option

The Planning Commission may reduce the requirements of Subsections C and D above if the applicant proposes to provide either four-foot high mounding or one six-foot high solid wood or masonry fence along the full length of lot line requiring the buffer. The mounding and fence shall be supplemented with a minimum of five deciduous trees and five evergreen trees per 100 lineal feet of buffer area. Trees shall be located on the outside of the fence.

1138.08 SCREENING REQUIREMENTS

A. Intent and Applicability

In addition to the site landscaping, vehicular use area landscaping, buffer, and street tree landscaping standards in this chapter, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from both on-site and off-site views. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

B. Items to be Screened

The following areas shall be screened in accordance with this section:

1. Large waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers);
2. Loading and service areas;
3. Outdoor storage areas (including storage tanks) not subject to the outdoor storage requirements of Section 1135.13 (Outdoor Sales, Display, and Storage); and
4. Mechanical equipment and utility meters not located on, and screened by, the building or structure. This shall include the base of telecommunication towers.

C. General Provisions

1. Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question every effort shall be made to retain such conditions. In such cases, additional screening may not be required, provided that provision is made for maintenance of such condition to the satisfaction of the Village.
2. Required screening areas shall be provided by the owner and/or developer as a condition of development. All required screening (including the planting of trees and other vegetation) shall be maintained by the property owner. Failure to maintain the required screening areas to accomplish their intended purpose shall constitute a violation of this Ordinance under Chapter 1141 (Enforcement and Penalties).

3. Areas to be set aside as screening areas shall be identified on the required site plans, as provided for in Section 1132.06 (Site Plan Review) and where applicable, on the improvement drawings as regulated by the subdivision regulations. It shall be unlawful to occupy any premises unless the required screening has been installed in accordance with the requirements as provided herein.
- D. Screening Requirements
1. All screening shall be approved by Planning Commission during site plan review.
 2. All items to be screened shall be shielded from view from public roads and adjoining property. Such screening shall be 75% opaque.
 3. All items to be screened shall be provided with a visual screen consisting of fences, walls, berms or plant materials or a combination thereof. The screening shall be at least one foot higher than the item to be screened but not less than six feet in height and shall extend along three sides of the service area.
 4. All plant materials used for required screens around service areas shall be of an evergreen variety.
 5. If an adjacent building provides screening on one side of the service area, only two sides need to be screened, bermed, or walled, with a gate required in front of the service area. The gate shall be opaque enough to shield from view the interior of the service area.
- E. Fence or Wall Screens
1. Fences or walls shall be compatible with the architectural materials and patterns of the principal structure.
 2. Under no circumstances shall a wall be constructed of unfinished concrete or cinder block.
 3. Split rail fencing shall be prohibited in the B1 District.
- F. Berm or Mound Screens
1. Berms or mounds shall be a minimum of three feet in height if other screening materials are used (fences or plant materials). If no other screening materials are used, the berms or mounds shall be a minimum of six feet in height.
 2. Berms or mounds with a two to one slope shall be finished with ground cover plant materials and berms with less slope may be finished with turf grass or sod.
- G. Plant Material Screens
- Plant materials shall be located in a four-foot wide bed. In addition, plants shall be spaced as to be capable of providing a 75 percent visual height and shall be six feet in height within four years of initial planting.

1138.10 TREE PROTECTION AND REMOVAL

- A. Tree Inventory Required
1. As part of a submittal application for a site plan, planned unit development, or subdivision, the applicant shall submit an aerial photograph, tree inventory, or professionally prepared tree survey (as appropriate) that clearly depicts the:
 - a. Lot lines of the parcel(s) involved;
 - b. The exact location, health, type, and size of all trees with a DBH of 18 inches or more located on the parcel(s) involved; and
 - c. The exact location, health, type, and size of any tree that the applicant proposes to use to meet the landscaping requirements of this chapter.

2. The tree inventory shall be taken and recorded by a qualified arborist, nurseryman, horticulturist, or landscape architect who is licensed, certified, registered or otherwise qualified in the State of Ohio.

B. Applicability

1. Residential Development and PUDs

The tree inventory or tree protection plan submitted as part of a residential subdivision, development, or PUD shall identify all protected trees that shall not be removed during development. Removal of a protected tree during the construction of the subdivision or development shall be deemed a violation of this Ordinance.

2. Nonresidential Development

No removal or disturbance of existing trees on a parcel or development site shall occur prior to approval of a site plan or zoning permit which shall be reviewed and approved in accordance with procedures established in Section 1132.06 (Site Plan Review and Section 1132.13 (Zoning Permit).

3. Responsibility for Compliance

Failure to comply with the standards of this section shall be considered a violation of this Ordinance subject to the remedies in this Chapter 1141 (Enforcement and Penalties).

C. Exemptions

The following tree removal activities are exempt from the standards of this section:

1. Removal of trees that are dead or dying based on an analysis and report by a qualified arborist;
2. Removal of trees that are determined by the Village Zoning Department to be a nuisance or threat to an existing structure, underground utility, or to the public health, safety, or welfare;
3. Removal of trees prohibited by the Village as established in Appendix A;
4. Removal, by the Village or its authorized agent, of trees on Village-owned land and within public rights-of-way in accordance with this chapter;
5. Removal of trees that are within the footprint of a proposed principal nonresidential building or within twelve (12) feet from the perimeter of such structures; and
6. Removal of trees that are within the footprint of required storm water detention/retention facilities.

1138.11 ALTERNATIVE LANDSCAPE PLAN

- A. The Planning Commission, upon request by an applicant, shall have the authority to modify the landscape requirements of this section and approve an alternative landscape plan for development only if determined appropriate by the Village Zoning Department
- B. In order for the Planning Commission to approve an alternative landscape plan, the Planning Commission must find:
 1. The proposed alternative achieves the intent of this section to the same or better degree than the subject standard;
 2. The proposed alternative achieves the goals and intent of this Ordinance to the same or better degree than the standards of this section; and
 3. The proposed alternative results in benefits to the community that are equivalent to or better than compliance with the standards of this section.

1138.12 MAINTENANCE

- A. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times.
- B. Unhealthy and dead plants that are required as part of these requirements shall be replaced within one year, or by the next planting season, whichever comes first.
- C. All landscaping including
- D. Violation of these maintenance practices shall be a violation of this Ordinance.

1138.13 APPEALS AND MODIFICATIONS

- A. Appeals.
 - 1. If Planning Commission disapproves a landscape plan submitted by an applicant, such applicant may appeal such decision within thirty (30) days of such decision by filing a petition with the Batavia Board of Zoning Appeals as an appeal pursuant to Ch. 1132.11.
- B. Modifications
 - 1. Upon the request of the applicant and if determined appropriate by the Village Zoning Department, the Planning Commission may modify the requirements of this chapter and approve a submitted landscaping plan upon findings that the request will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Chapter would detract from the stated purpose of this Chapter. A request for a modification shall be submitted for review by the Village Zoning Department and shall be heard at a regularly scheduled Planning Commission meeting. The Planning Commission shall decide the issue within a reasonable time after the hearing. In evaluating a request for a modification, the Planning Commission shall include, but not be limited to, the following criteria:
 - a. The specific condition(s) which are unique to the applicants land, and do not exist on other land within the same zone;
 - b. The manner in which strict application of this Chapter would deprive the applicant a reasonable use of the land in a manner equivalent to the use permitted other landowners in the same zone;
 - c. The unique conditions and circumstances are not self-created after the adoption of this Chapter;
 - d. Reasons that the variance shall preserve, not harm the public safety and welfare, and shall not alter the essential character of the neighborhood; and
 - e. The fact that the agreed upon landscape plan substantially complies with the terms.
 - 2. Providing Fewer Plantings than Required
 - a. The Village Zoning Department may permit a total reduction of up to a maximum of 10 percent of the required number of plantings upon compliance with all other sections of this chapter.

CHAPTER 1139: SIGNS

1139.01 PURPOSE

The purpose of this chapter is to protect the general health, safety, morals and welfare of the community by providing an instrument for protecting the physical appearance of the community and for encouraging high quality, effective outdoor graphics for the purposes of navigation, information and identification. Specifically, it is the intent of this chapter to provide businesses in the municipality with equitable sign standards in accordance with fair-competition and aesthetic standards acceptable to the community, to provide the public with a safe and effective means of locating businesses, services and points of interest within the municipality, and to provide for a safe vehicular and pedestrian traffic environment. This chapter is based on the premise that signs are as much subject to control as noise, odors, debris and other similar characteristics of land use, that if not regulated, can become a nuisance to adjacent properties or the community in general, or depreciate the value of other properties within the community. It is also the intent of this chapter, as with the entire Batavia Zoning Ordinance, to guarantee equal treatment under the laws through accurate record keeping and consistent enforcement.

1139.02 APPLICABILITY

- A. The regulations set forth herein shall apply and govern signs in all zoning districts except as otherwise specifically provided within this Ordinance.
- B. It shall hereafter be unlawful for any person to erect, place, or maintain a sign in the Village except in accordance with the provisions of these regulations.

1139.03 SIGN PERMIT AND COMPLIANCE REQUIRED

- A. Unless otherwise provided by this chapter, all signs shall require a sign permit and a payment of fees. Exceptions to the permit requirement are as follows:
 - 1. No sign permit is required for the maintenance of a sign or for a change of copy on changeable copy signs.
 - 2. A sign permit, but no fee, is required for the changing of a sign face other than a change of copy on changeable copy sign.
 - 3. Any sign owned, maintained, leased or otherwise in control of Village shall not require a permit.
- B. The relocation of a sign from one area of a lot to another location on the same lot shall require a sign permit.
- C. The alteration or enlargement of any sign shall require a sign permit.
- D. All wiring, fittings, and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the local electrical code in effect.
- E. The zoning permit review procedures are provided for in Ch. 1132.13.

1139.04 COMPUTATIONS

The following regulations shall control the computation of sign area and sign height:

- A. The sign area shall be computed by means of the smallest, single geometric shape (i.e., square, rectangle, circle, or triangle) that encompasses the extreme limits of the writing, representation, emblem, or other display elements, together with any material or color that is an integral part of the background of the display or used to differentiate the sign from the structure against which it is placed. This does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets all applicable zoning regulations and is clearly incidental to the display itself.

- B. The height of a ground mounted sign shall be determined by measuring the vertical distance between the top part of a sign or its structure, whichever is highest, to the elevation of the ground directly beneath the sign. In cases where signs are to be located on man-made berms or other similar ground formations, the elevation of the street curb nearest to the location of the sign shall be utilized for determining sign height. In the case of a private or public street without curbing the edge of pavement nearest to the sign location shall be utilized to determine sign height.
- C. The sign area for a sign with more than one face (multi-faced signs) shall be computed by adding together the area of all sign faces visible from any single point.
- D. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than 24 inches apart, the sign area shall be computed by the measurement of one of the faces.

1139.05 GENERAL RULES, REGULATIONS, AND LIMITATIONS

- A. Signs shall be clearly incidental, customary to and commonly associated with the operation of the principal use of the lot where said sign is located, such signs shall be further defined as on-premise signs;
- B. This chapter shall apply to any sign that is visible from the public right-of-way or from property other than the property on which the sign is located; signs located entirely within buildings or other structures and which are not visible from the public right-of-way or from property other than the property on which the sign is located are exempt from this chapter.
- C. No sign shall be erected or maintained at any location where by reason of its position, working, illumination, shape, symbol, color, form or character it may obstruct, impair, obscure, interfere with the view of, or may be confused with any authorized traffic sign, signal or device, or interfere with, mislead, confuse, or disrupt traffic safety or flow.
- D. It shall be unlawful and a violation of this Ordinance for any person to fasten, place, paint or attach in any way, any sign, handbill, poster, advertisement, or notice of any kind or cause the same to be done in or upon any curbstone, lamp post, telecommunication pole, electric light or power pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest station building, tree, or in or upon any portion of any public sidewalk, street or sign, except as specifically permitted within this Ordinance.
- E. No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation within any right-of-way (unless express written authorization is obtained from the agency having jurisdiction over the right-of-way) or on any area where landscaping is required by this Ordinance.
- F. The illumination of exterior signs shall be accomplished from a concealed source. The light shall be focused on externally lighted signs to light only the sign. Internally illuminated panel signs must have a background color that prohibits additional illumination other than the actual sign face.
- G. When a sign becomes dangerous for any reason, as determined by the Village Zoning Department, the Department shall have the power and the authority to remove or cause to have removed such sign when the owner or agent has failed to correct the situation within the time specified by the department to repair or make such sign safe. The owner or agent of such sign shall bear the full costs of such removal and shall be billed accordingly. If the Village Zoning Department determines that such sign is of possible immediate danger to persons or vehicles, which may be passing nearby, the department shall place or cause to have placed, signs or barriers indicating such danger.
- H. All buildings and units shall have a sign providing the numeric address, clearly visible from the addressing street, for identification purposes to assist in fire and safety protection. Such signs

shall not require a sign permit but shall otherwise conform to the standards of this Ordinance.

- I. Signs shall not be attached to roofs, chimneys, smokestacks, stair towers, penthouses, and the like.
- J. Signs as Traffic Hazards
 1. No sign shall be erected at or near any intersection of any streets, or any railway and any street, in a manner as to obstruct free and clear vision, or at any location where, by reason of position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or which makes use of the words "stop," "look," "danger," or mislead, or confuse traffic.
 2. Light sources for illuminated signs shall not be of brightness as to constitute a hazard to pedestrian or vehicular traffic.
 3. No rotating beam, beacon, or flashing illumination resembling an emergency light shall be used in connection with any sign display; nor shall any illuminated device designed to attract attention of users of the street be permitted unless it is an integral part of the sign as herein defined.
 4. Illumination for signs shall be directed or shaded so as not to interfere with the vision of persons on the adjacent roadways or adjacent property.
- K. Signs on Awnings, Canopies, Fascia, or Marquees
 1. Awnings, canopies, fascia, or marquees shall be designated as permanent parts of the building and shall meet all of the requirements of all applicable building and electrical codes.
 2. Unless otherwise provided in this chapter, the sign area of the awning, canopies, fascia, or marquee shall be included as part of the wall sign area calculation.
 3. In cases where the awning, canopy, fascia, or marquee is constructed of translucent material, is illuminated from within or behind the structure, and contains sign copy, the entire area of the structure shall be calculated in determining the sign area.
 4. Such signs shall be permitted to extend into the public right-of-way over a sidewalk but shall be required to provide a clearance of eight feet between the sidewalk and the sign. Such sign shall not extend above the roof line.
- L. Wall Signs
 1. Wall signs shall be affixed flat to the building wall surface and shall not extend above the top or ends of the building wall on which the sign is placed.
 2. Wall signs shall not project more than 12 inches from the building wall surface.
 3. Wall signs shall not mask or interrupt a major architectural feature including, but not limited, to doors, windows, or trim.
 4. The structural supports of wall signs shall be concealed from view.
- M. Window Signs
 1. Any sign that is located within the interior of a structure, but remains visible through a window shall be deemed a window sign and subject to applicable standards. This shall include, but is not limited to, signs painted or otherwise attached to the window, and neon signs.
 2. The sign area of a window sign shall be included as part of the wall sign area calculation.
- N. Changeable Copy Signs
 1. A changeable copy sign shall only be permitted as part of a permanent on-premise sign.
 2. A changeable copy sign shall be limited to ground-mounted signs.
 3. The sign copy or display message shall be limited to alphanumeric text only.

4. The sign face of a changeable copy sign shall not exceed 60% of the total sign area or 32.6 square feet whichever is less.
 5. A changeable copy sign that comprises an electronic sign copy or display message shall be subject to the following additional requirements:
 - a. The sign copy or display message shall not exceed illumination intensity levels of 5,000 units during daylight hours and 1,000 nits during nighttime hours. The sign shall have illumination dimming technology to assure daytime and nighttime levels are not exceeded and maintain effective illumination based on ambient light conditions.
 - b. The illumination intensity shall be pre-set by the manufacturer not to exceed the levels stated above, and further protected from end-user manipulation by software or other means as approved by the Village Administrator or appointed designee. The manufacturer certification shall be required as a part of the sign permit application.
 - c. A face change to a legal nonconforming sign, as determined under Ch. 1139.12, that involves the conversion of an existing manual changeable copy sign to an electronic sign copy or display message, shall be restricted in size to 60% of the existing total sign area or 32 sq. ft., whichever is less. In no case shall the electronic sign copy or display message exceed the sign area of the original sign copy or display message.
- O. Signs in a Planned Unit Development (PUD)
- Signs for residential uses in a PUD shall comply with the standards of Section 1139.07 of this chapter and signs for business uses in a PUD shall comply with the standards of Section 1139.08 of this chapter unless an alternate sign plan is approved as part of the PUD review and approval process.
- P. Enforcement
- The Village Zoning Department shall have the duty and authority to remove or cause to have removed, any sign which is erected and is not in full compliance with all applicable provisions and regulations of this Ordinance, or any other applicable laws, codes, or ordinances of the Village of Batavia. If, after due notice and reasonable time for compliance, the owner of such sign has failed to remove the sign or correct the violation, such owner or agent shall bear full costs of such removal and shall be billed accordingly.
- Q. Prohibited Signs
- The following types of signs are prohibited within the Village:
1. Off-premises signs.
 2. Signs in any public right-of-way except:
 - a. Signs owned by the Village, Clermont County, State of Ohio, or the federal government;
 - b. Signs as expressly permitted in the right-of-way as permitted in Sections 1139.07, 1139.08, or 1139.09.
 - c. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message that are necessary to identify the use.
 - d. Signs installed by a transit company with a franchise or other right to operate in Clermont County, where such signs are installed along its routes and relate to schedules or other information about the transit route.

3. Abandoned Signs
 - a. Any sign now or hereafter existing that no longer advertises a bona fide business conducted on the premises or a product sold on the premises for a period of six- months shall be deemed abandoned.
 - b. Such a sign shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which the sign may be found within 30 days after notification to the owner from the Village Zoning Department.
 - c. All signs shall be in conformance with Section 1139.11 regarding the maintenance of signs.
4. No radio, phonograph, tape recorder, whistle, bell, gong, siren, or other sound or noise-making or transmitting device or instrument shall be allowed in connection with any sign nor may it be used separately for advertising purposes in any zone.
5. No sign shall be allowed which constricts the flow of air through any window or door.
6. Any illuminated sign or lighting device shall employ only light emitting a light of constant intensity. Flashing and moving signs are specifically prohibited. All wiring, fittings and materials used in the sign shall be in accordance with the provisions of the electrical code in effect at the time of installation, modification or repair of the sign.
7. Except as specifically provided within the temporary sign section, signs shall be permanently attached to the ground or on the building which the sign is intended to serve.
8. Signs located on portable type vehicles or structures shall not be permitted, in any zoning district.
9. Mobile signs which are parked or located for the primary purpose of display and which are not regularly driven or towed in the normal course of business are prohibited.
10. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving devices. Such devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention.
11. Air activated graphics or balloons filled with helium, gas, air or any other gaseous material either suspended from or affixed to a structure, vehicle or ground, intended to be used for the purpose of advertising or attracting attention.
12. Signs imitating or resembling official traffic or governmental signs or signals.
13. Snipe signs, roof signs, and/or graffiti are also prohibited.
14. Permanent signs on an individual residential lot except where otherwise permitted in this chapter.
15. Electronic message centers as defined under Ch. 1142.01 (N. 171 f.).
16. All portable advertisement signs (including mobile signs on wheels), excluding sidewalk signs permitted in accordance with subsection 1139.09(G)

1139.06 SPECIAL SIGNS

- A. The following sign types shall be exempted from permit requirements but shall be in conformance with all other requirements of this chapter:
 1. Commemorative plaques placed by recognized historical agencies; such a sign shall bear no commercial message unless it meets all of the standards for a sign bearing a commercial message at that location.
 2. One wall sign, not to exceed two square feet in area, for each dwelling unit. Such sign shall not contain any commercial message. If lighted, such sign may be lit with indirect illumination only.
 3. Routine maintenance of any sign, not involving structural changes to the sign.

4. Changes of message, either manually or electronically, on a message board or reader board, subject to limitations in this Chapter.
 5. Changes of sign panels or letters that do not involve structural changes to the sign.
 6. Signs installed by Village in the course of their official duties.
 7. Other signs conforming to the Manual of Uniform Traffic Control Devices and bearing no commercial message.
- B. The following signs shall be exempt from the certificate requirements of this chapter and shall not be considered in applying limitations on the number of signs permitted on a wall or a lot, but such signs shall be subject to the lighting, installation, height, setback, maintenance and other standards set forth in this section:
1. Detached signs smaller than two square feet in area and less than four feet in height, and containing no commercial message.
 2. Wall signs smaller than two square feet in area and containing no commercial message.
 3. Any sign not legible from a public way or from private property other than the lot on which the sign is located.

1139.07 SIGNS PERMITTED IN RESIDENTIAL DISTRICTS

The following permanent signs may be permitted in the E-R, R-1, or R-2 Districts and shall require a sign permit:

A. Ground-mounted Signs

One permanent ground-mounted sign for each subdivision, multi-family development, or nonresidential conditional use in a residential zoning district provided that the signs meets the following requirements:

1. One sign may be permitted at each entrance along a Village, county or state road. A minimum separation of 500 feet, measured along the public roadway centerline, shall be required between multiple signs. Decorative columns with a maximum height of 96 inches and a maximum sign area of four (4) square feet shall be permitted within the minimum separation and on a single road frontage as the primary sign.
2. The sign shall be setback a minimum of ten (10) feet from the public right-of-way and five feet from any adjacent property lines.
3. The sign may have a maximum sign area of 32 square feet, not including any fence or wall on which the sign is located.
4. No such sign or any portion of the structure shall exceed six feet in height. Structure and architectural elements may extend twelve (12) inches above the maximum sign height. Masonry materials may extend an additional twelve (12) inches.
5. Only concealed external light illumination shall be permitted unless otherwise permitted under this subsection.
6. The base of all signs shall be constructed of the same building materials used for the principal building or other material approved by the Village Zoning Department.
7. The ground-mounted sign shall be located in a landscaped area equal to or greater in size than the total sign face area. The landscaped area shall consist of a combination of trees, shrubs, low level plantings, and/or . Ground mounted signs may be located in landscaped areas required by Chapter 1138:
8. The ground-mounted sign may include a changeable copy sign in accordance with the requirements of Ch. 1139.05 (N.).

B. Wall Signs

Wall or individual letter signs for each nonresidential conditional use in a residential zoning district provided that the sign meets the following requirements:

1. Signs may be single-faced only.
2. The maximum permitted sign area shall be the equivalent to one square foot of sign area for each one (1) lineal foot of building frontage not to exceed 50 square feet.
3. Only concealed external light illumination may be permitted.

C. Permanent Driveway/Parking Signs

Permanent driveway/parking signs shall be permitted under the following provisions:

1. The sign shall be located within ten feet of the intersection of a public street and a private driveway.
2. The signs shall be setback five (5) feet from the public right-of-way and five feet from any adjacent property lines.
3. The sign shall not contain a commercial message.
4. One sign may be permitted per each individual curb cut.
5. Any number of additional signs may be permitted within an off-street parking area with more than 25 spaces.
6. The sign may not exceed six square feet in area.
7. The sign height shall not exceed five feet.
8. Only concealed external light illumination may be permitted.

D. Bed and Breakfast Establishments

The requirements for signs accessory to a Bed and Breakfast Establishment are provided in Ch. 1113 (B.3.).

1139.08 SIGNS PERMITTED IN THE NONRESIDENTIAL DISTRICTS

The following permanent signs may be permitted in the nonresidential districts as listed and shall require a sign permit:

A. Ground-mounted Signs

One permanent ground-mounted sign, per street frontage, per lot provided that the sign meets the following requirements:

1. One sign may be permitted for each individual principal building when multiple principal buildings are located on a single lot. A minimum separation of 50 feet, measured along the public roadway centerline shall be required between multiple signs.
2. The signs shall be setback ten (10) feet from the public right-of-way and five feet from any adjacent property lines.
3. The maximum sign area shall not exceed 32 square feet with a maximum height of six (6) feet; however, if a building contains three or more separate businesses, the maximum sign area shall not exceed 64 square feet with a maximum height of ten (10) feet. Structure and architectural elements may extend twelve (12) inches above the maximum sign height. Masonry materials may extend an additional twelve (12) inches.
4. For lots with multiple street frontages, the maximum sign area shall not be increased but the owner may apply the maximum sign area to multiple signs with a maximum of one sign per street frontage. Decorative columns with a maximum height of 96 inches and a maximum sign area of four (4) square feet shall be permitted within the minimum separation and on a single road frontage as the primary sign.

5. The base of all signs shall be constructed of the same building materials used for the principal building or other material approved by the Village Zoning Department.
6. The ground-mounted sign shall be located in a landscaped area equal to or greater in size than the total sign face area. The landscaped area shall consist of a combination of trees, shrubs, low level plantings, and/or perennials. Ground-mounted signs may be located in landscaped areas required by Chapter 1138: Landscaping and Buffering. Two 1.5"+ trees may be planted within fifty (50) feet of the sign as an alternative to a landscaped area.
7. The ground-mounted sign may include a changeable copy sign in accordance with the requirements of Ch. 1139.05 (N.).

B. Wall Signs

Wall signs provided that the signs meet the following requirements:

1. The signs shall be single-faced only.
2. The maximum permitted sign area shall be the equivalent to one square foot of sign area for each one (1) lineal foot of building frontage not to exceed 150 square feet.
3. A building having a reverse frontage shall be permitted one (1) additional wall sign along such frontage with a maximum sign area not to exceed 0.5 square feet of sign area for each one (1) lineal foot of reverse frontage not to exceed 50 square feet.

C. Projecting Signs

Projecting signs may be permitted provided the signs meet the following requirements:

1. The maximum sign area shall be two square feet.
2. The sign shall be attached to the building and shall not project more than 18 inches from the face of the building.
3. Only concealed external illumination shall be permitted.

D. Permanent Driveway/Parking Signs

Permanent driveway/parking signs shall be permitted under the following provisions:

1. The sign shall be located within ten feet of the intersection of a public street and a private driveway.
2. The signs shall be setback five (5) feet from the public right-of-way and five feet from any adjacent property lines.
3. The sign shall not contain a commercial message.
4. One sign may be permitted per each individual curb cut.
5. Additional signs, not exceed four (4) signs may be permitted within an off-street parking area with more than 25 spaces;
6. The sign shall not exceed six (6) square feet in area.
7. The sign shall not exceed five (5) feet in overall height.
8. Only concealed external light illumination shall be permitted.

1139.09 SIGNS PERMITTED IN THE B1 DISTRICT

The following permanent signs may be permitted in the Village Business District (B1) districts as listed and shall require a sign permit:

A. General Requirements for Signs in the B1 District

The following general requirements apply to all signs permitted in the Village Business District;

1. All sign permits within the B1 District shall comply with all other applicable standards of this chapter and Ordinance and shall be approved by the Village Zoning Department.
2. All efforts should be made to keep the sign message as concise as possible and applicants are encouraged to utilize logos or other representations to illustrate the use of the building.
3. Only concealed external illumination from a continuous light source shall be permitted as a method of illuminating a sign.
4. Structural supports for a sign shall not extend above the cornice line of the building to which it is attached.

B. Maximum Sign Area

The maximum allowable number of square feet of total permanent signage for a business or use is calculated as follows:

1. The total area of signs for an individual business or use shall be the equivalent to one square foot of sign area for each one (1) lineal foot of building frontage. If a use has less than 25 feet of building frontage, it is allowed a maximum of 25 square feet of permanent signs. This maximum sign area shall include, but not limited to, all wall signs, window signs, ground signs, and projecting/right-angle signs.

C. Ground-mounted Signs

One permanent ground mounted sign, per lot, is permitted provided that the sign meets following requirements:

1. The total sign area of a ground-mounted sign shall apply to the maximum sign area for business or use as permitted Ch. 1139.09 (B.).
2. The sign shall not exceed 16 square feet in sign area.
3. The sign shall not exceed six (6) feet in overall height.
4. The sign shall be setback five (5) feet from the public right-of-way and five feet from any adjacent property lines.
 - a. In cases where the principal structure is setback 5 feet or less from the public right- of-way with minimum space for signage, the sign may be placed up to the public right-of-way if it is determined there are no line-of-sight conflicts caused by such installation.

D. Wall Signs

Wall signs provided that the signs meet the following requirements:

1. Signs shall be single-faced only.
2. The maximum permitted sign area shall be the equivalent to one square foot of sign area for each one (1) lineal foot of building frontage.

E. Projecting Signs

Projecting signs and right-angle signs provided that the signs meet the following requirements:

1. A projecting sign or sign attached at right angles to a building can have no more than two faces and can project no more than five feet from the building.

2. No more than one projecting/right-angle sign is allowed for each street level entrance door to a business establishment, and the business that the sign advertises must have at least 15 feet of horizontal linear wall facing the street. One additional right-angle sign is permitted for each upper level floor access to identify upper floor business establishments and shall not be computed in the sign area of the building, regardless of the sign frontage.
 3. The bottom of the sign must be at least eight (8) feet above ground level and its top may not extend higher than whichever of the following is lowest:
 - a. Fifteen (15) feet above grade.
 - b. The lowest point of the roof.
 4. Signs may not be attached to roofs, chimneys, smokestacks, stair towers, penthouses, and the like.
 5. The maximum sign area shall not exceed 25 square feet.
 6. No exposed guy wires or turnbuckles are allowed on a projecting/right-angle sign.
- F. Miscellaneous Signs
1. Canopy, marquee or awning signs are permitted on the vertical face or underside of the projecting structure and shall not extend above it.
 2. Window signs are permitted and shall not cover more than 33 percent of the window surface. Such signs shall be included as part of the maximum sign area of signs allowed for an individual building or use.
 3. Temporary window signs are permitted and shall only advertise special sales or events lasting no more than 15 days. The signs shall cover no more than 30% of the area of the window in which they appear.
- G. Sidewalk Signs
- Sidewalk signs provided that the signs meet the following requirements:
1. An application shall be filed in accordance with Section 1132.13 (Zoning Permit). The annual permit fee for a sidewalk sign permit shall be established in the Village's fee schedule. Such permit shall be effective from January 1 to December 31.
 2. The application shall be accompanied by a certificate of liability insurance, naming the Village as an additional insured, of not less than \$1,000,000, covering the proposed sign, wherein the Village is named as an insured for any injury, loss or damage caused by the use or maintenance of the sign. Further, the applicant shall execute an agreement with the Village whereby the applicant agrees to defend and indemnify the Village and hold the Village harmless from any claims for injury, loss or damage arising from the use or maintenance of the sign.
 3. No sign permitted on any public sidewalk shall hinder or block ingress and/or egress to any public or private entryway to any property or structure. Further, no sign on a public sidewalk shall impede or hinder pedestrian travel on public sidewalks nor shall any such sign impede or hinder ingress or egress to vehicles parked at curbside, nor shall any such sign impede access from the street or sidewalk to any parking meter. Signs shall not project more than 30 inches, from the building, into the public right-of-way.
 4. All sidewalk signs shall be temporary in nature and must be removed from the sidewalk at the close of business each day. Also, sidewalk signs shall be made of durably, marine plywood, or other equivalent material approved by Village Zoning Department.
 5. All sidewalk signs shall have a maximum width of two feet with a maximum height of four feet and shall be counted toward the maximum square footage of signage allowed for a business.

6. All sidewalks signs shall be placed in front of the business in which the sign advertises. Off-site signage is prohibited.
7. Properties adjacent to alleyways that contain a public entrance that fronts such alleyways may be permitted to erect an additional sidewalk sign provided the sign meets the following requirements:
 - a. The additional sidewalk sign shall be placed near the business entrance along the alley in which it fronts.
 - b. The additional sidewalk sign meets the all requirements for sidewalk signs as listed in subsection 1139.09 (G).
 - c. The additional sidewalk sign shall be permitted in addition to the maximum sign area permitted in subsection 1139.09 (B).

H. Alleyway Signage

1. Any building where the rear building elevation has frontage along a public alley in the B1 zone shall be permitted addition sign area along such frontage with a maximum area not to exceed 0.25 square feet of sign area for each one (1) lineal foot of alley frontage.
2. Permanent signage adjacent to alleys shall be restricted to wall signs, projecting signs, or other miscellaneous signs as outlined is subsection 1139.09 (F). Said signage shall meet the requirements outlined is subsections 1139.09 (D, E & F)

I. Neon/LED Signs

Neon/LED signs provided that the signs meet the following requirements:

1. Each first floor business or tenant space shall be permitted to have five square feet of neon/LED window signage or up to a maximum of five percent of the total first floor window area, whichever is greater.

1139.10 TEMPORARY SIGNS

A. Standards that Apply to All Temporary Signs in all Zoning Districts

1. No temporary sign shall be mounted, attached, affixed, installed or otherwise secured by any permanent means to any building, permanent sign, vehicle, other structure or improvement, or to the ground upon which it is erected.
2. No temporary sign shall be mounted, attached, affixed, installed or otherwise secured so as to protrude above the roof of a structure.
3. Temporary sign shall not be illuminated by anything other than non-reflected daylight.
4. In areas under active construction, one additional sign is permitted. One temporary offsite construction sign is permitted at a location that corresponds to the active construction site.

B. Permitted Temporary Signs in a Residential Zoning District

1. The following regulations shall apply to all Temporary Signs in all Residential Districts (R-1, and R-2) unless specifically mentioned elsewhere in this chapter.
 - a. Temporary signs in a Residential District shall not be permitted within 20 feet of the pavement of any intersection.
 - b. No more than two (2) temporary signs are permitted on each lot. Such sign area shall be limited to six (6) square feet or less for each sign and shall not exceed four (4) feet in height. These signs shall not require a sign permit or fee.

- c. Temporary signs in a Residential District shall be set back a minimum of ten (10) feet from the right-of-way and five (5) feet from any adjacent property lines. The setback distance may be reduced in cases where the principal building (i.e. single-family dwelling unit) is less than 20 feet from the right -of-way. In such cases the minimum setback distance shall be equal to 0.5 feet for each linear foot of principal building setback. If the principal building is less than five (5) feet from the right-of-way, the sign may be placed up to the right-of-way.
- C. Permitted Temporary Signs in Nonresidential Districts
 - 1. This section addresses permitted temporary signs in Nonresidential zoning district (IO, B1, & B2).
 - 2. The following regulations shall apply to all Temporary Signs in a Nonresidential zoning District unless specifically mentioned elsewhere in this chapter
 - a. Temporary signs in a Nonresidential zoning District shall not be permitted within 20 feet of the pavement of any intersection.
 - b. Temporary signs in a Nonresidential zoning District shall be setback a minimum of ten (10) feet from the public right-of-way and five (5) feet from any adjacent property lines.
 - c. The setback distance may be reduced in cases where the principal building (i.e. single- family dwelling unit) is less than 20 feet from the right -of-way. In such cases the minimum setback distance shall be equal to 0.5 feet for each linear foot of principal building setback. If the principal building is less than five (5) feet from the right-of-way, the sign may be placed up to the right-of-way.
 - 3. No more than two temporary signs are permitted on each Nonresidential lot. Such sign area shall be limited to six (6) square feet or less for each sign and shall not exceed four (4) feet in height. These signs shall not require a sign permit or fee.
 - 4. No more than one temporary sign exceeding six (6) square feet in sign area is permitted per lot in a Nonresidential zoning District. Such sign shall be limited to 32 square feet or less in sign area and shall not exceed six (6) feet in overall height. The sign shall be permitted for a maximum of 90 days per calendar year, per lot. An additional 90 days per year can be applied for but require an additional permit and fee. Such sign shall require a sign permit and fee.

1139.11 MAINTENANCE

- A. All signs as herein permitted shall be constructed and maintained and illuminated in a safe manner, comply with all applicable codes and kept in good repair.
 - 1. Signs shall be free from rust, dust, dirt, and other such debris
 - 2. Exposed surfaces shall be clean and painted if paint is required.
 - 3. Defective parts shall be replaced.
 - 4. The Village Zoning Department shall have the right to order the repair or removal of any sign that is defective, damaged, or substantially deteriorated. Such sign shall be repaired or removed by the owner, agent, or person having the beneficial use of the sign within 30 days after notification to the owner from the department.
- B. Should any sign be or become unsafe or be in danger of falling, the owner, tenant, or lessee shall, upon receipt of written notice from the Village Zoning Department, proceed at once to correct the unsafe condition and/or remove the sign in questions.
- C. Signs shall not be constructed, maintained, and/or illuminated in such a manner as to create or allow the obstruction of vision or drivers, pedestrians, or the general public, or create a fire or safety hazard. Signs shall be subject to the vision clearance regulations of this Ordinance.

1139.12 NONCONFORMING SIGNS**A. Determination of Legal Nonconformity**

Existing signs that do not conform to the specific provisions of this Ordinance may be eligible for the designation of a "legal nonconforming sign" provided that they are not in violation of either of the following:

1. The Village Zoning Department determines that such signs are properly maintained and do not in any way endanger the public or constitute a nuisance and/or;
2. The sign was covered by a valid permit or variance, or complies with all applicable laws on the effective date of this Ordinance.

B. Loss of Legal Nonconforming Status

A legal nonconforming sign loses the legal nonconforming designation if and shall be brought into compliance with the requirements of this chapter or be removed if:

1. The sign is relocated.
2. The sign structure is replaced.
3. The structure or size of the sign is altered in any way except towards compliance with this Ordinance. This does not refer to general maintenance, a change of copy on changeable copy signs, or face changes.
4. The sign is part of an establishment that discontinues its operation for a period of six (6) months.
5. The sign is damaged to an extent greater than fifty percent (50%) of the estimated replacement value.

C. Maintenance and Repair of Nonconforming Signs

The legal nonconforming sign is subject to all requirements of this chapter regarding safety, maintenance, and repair. However, if the sign suffers damage to an extent greater than 50% of the estimated replacement value, such sign shall be replaced and/or reconstructed in compliance with this Ordinance.

CHAPTER 1141: ENFORCEMENT AND PENALTIES

CHAPTER 1141: ENFORCEMENT AND PENALTIES

1141.01 VIOLATIONS

No building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used, in violation of this Ordinance. Each day's continuation of a violation of this Ordinance may be deemed a separate offense.

1141.02 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Village Zoning Department. The Department shall record such complaint, promptly investigate, and take action thereon as provided by this Ordinance.

1141.03 PENALTIES

- A. Any person or entity that violates any provision of this ordinance or who fails to obey any lawful order of the Village of Batavia Village Zoning Department, shall be deemed guilty of a misdemeanor and, upon conviction shall be fined not more than \$500.00 or the maximum amount allowed by the Ohio Revised Code. Each and every day during which such violation occurs shall constitute a separate offense.
- B. The owner or tenant of any building, structure, premises, or part thereof, any architect, engineer, surveyor, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may be found guilty of a separate offense and suffer the penalties herein provided.

1141.04 REMEDIES

- A. 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 this Ordinance, the Village of Batavia Village Council, the Village attorney, the Village Zoning Department, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.
- B. Village council, with the direction and advise of the Village attorney, may employ special counsel to represent it in any proceeding or to prosecute any actions brought under this Ordinance.

1141.05 CIVIL PROCEEDINGS

- A. Whenever the Village Zoning Department or any other officer charged with the enforcement of this Ordinance is satisfied that any provisions he is charged to enforce, applicable to the subject matter herein, has been violated or is about to be violated in any respect, or that any order or direction made in pursuance of the enforcement of this Ordinance has not been complied with, or is being disregarded, and whenever they are satisfied that civil proceedings or appeal are necessary for the enforcement of this Ordinance or laws, to restrain or correct the violation thereof, or to prevent the occupancy or use of any building that is being constructed, altered or maintained in violation of this Ordinance, they shall apply to the Village attorney, who is hereby authorized to institute civil proceedings or appeal.

CHAPTER 1141: ENFORCEMENT AND PENALTIES

- B. Such civil proceedings or appeal shall be brought in the name of the Village, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal proceedings as may be authorized by this Ordinance, or any of the laws or resolutions in force in the Village or to exempt anyone violating this Ordinance or any part of the said laws from any penalty which may be incurred.

RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS
CHAPTER 1142: RULES OF CONSTRUCTION, INTERPRETATION, AND
DEFINITIONS

1142.01 RULES OF CONSTRUCTION AND INTERPRETATION

- A. Intent
All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to the stated purpose and intent of this Ordinance.
- B. Lists and Examples
Unless otherwise specifically indicated, lists of items or examples that use terms such as including, such as, or similar language are intended to provide examples, not to be exhaustive lists of all possibilities.
- C. Computation of Time
Unless the terms of a specific provision state otherwise (e.g., some provisions specify “business days”), periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business/working days; however, if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.
- D. References to Other Regulations, Publications and Documents
Whenever a reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.
- E. Public Officials and Agencies
All public officials, bodies, and agencies to which references are made are those of the Village of Batavia, unless otherwise expressly stated.
- F. Delegation of Authority
Whenever a provision appears requiring the head of a department or another officer or employee of the Village to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.
- G. Technical Words
Technical words and phrases not otherwise defined in this Ordinance that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- H. Mandatory and Discretionary Terms
The word shall is always mandatory, and the words may or should are always permissive.
- I. Conjunctions
Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:
 - 1. “And” indicates that all connected items, conditions, provisions, or events shall apply; and
 - 2. “Or” indicates that one or more of the connected items, conditions, provisions, or events shall apply.
- J. Tense and Usage
Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

◆ RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS ◆

- K. Gender
The masculine shall include the feminine, and vice versa.
- L. Meaning
For the purpose of this Ordinance, words and phrases shall have the meanings set forth in this chapter.
- M. Other Terms Not Defined
Words and phrases not otherwise defined in this Ordinance shall be construed according to the common and approved usage of American English.
- N. Definitions
1. **Abandonment.** The discontinuance of the occupation and productive use of the property by the owner.
 2. **Abutting or adjacent** shall mean the land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.
 3. **Accessory building, structure, or use** shall mean a building, structure, or use that is incidental to and customarily found in connection with a principal building or use; is subordinate to and serves a principal building or use; is subordinate in area, extent, or purpose to the principal building or use served; and is located on the same lot as the principal building or use served. Includes shipping containers.
 4. **Accessory dwelling unit** shall mean a separate residential dwelling unit, but not a mobile home, located on the same lot as a commercial use or residential use in a mixed-use PUD, either within the same building as the principal use or in a detached building. The accessory dwelling unit shall be developed in accordance with the local building code and only in those zoning districts where the use is listed.
 5. **Active park and recreational facilities** shall mean any park or recreational facility that requires grading of the land, construction of facilities, lighting, or is developed for ball fields, tennis courts, swimming pools, skate parks, disc golf, golf courses and other active sports facilities with the exception of bike and hike trails. The principal use and activities of an active park, playground, and recreational facility are generally located outdoors although the use may include some enclosed structures that are accessory to the principal use.
 6. **Adult entertainment** shall mean performances by topless and/or bottomless dancers, strippers or similar entertainers, where such performances are characterized by the display or exposure of specified anatomical areas.
 7. **Adult entertainment facilities** shall mean adult bookstores, adult drive-in theaters, adult cabarets, adult mini-motion picture theaters, adult motion picture theaters, or any other similar service or entertainment facilities which emphasize nudity and/or sexual activities as an entertainment medium.
 - a. **Adult bookstore** shall mean an establishment, from which minors are excluded, having as a substantial or significant portion of material on display and/or for sale (25% or more in value in merchandise, books, magazines, or other periodicals) are distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
 - b. **Adult cabaret** shall mean a cabaret which features go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers performing adult entertainment.

◆ RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS ◆

- c. **Adult drive-in theater** shall mean an outdoor theater for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.
 - d. **Adult mini-motion picture theater** shall mean an enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
 - e. **Adult motion picture theater** shall mean an enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.
- 8. **Adult family home** shall mean a residence or facility, as defined and regulating in Chapter 5119 of the Ohio Revised Code, which provides accommodations for 3 to 5 unrelated adults and provides supervision and personal care services to at least 3 of the unrelated adults.
 - 9. **Adult group home** shall mean a residence or facility, as defined and regulating in Chapter 5119 of the Ohio Revised Code, which provides accommodations for 6 to 16 unrelated adults and provides supervision and personal care services to at least 3 of the unrelated adults.
 - 10. **Aggregate caliper inch** shall mean the combined total number of inches of existing and/or proposed trees utilized to meet a landscape requirements within a required landscape area. Caliper inch sizes for individual proposed trees are measured as indicated in the American Standard for Nursery Stock (ANSI 260.1-2004, as amended). Caliper inch sizes for existing trees shall be measured in Diameter at Breast Height (DBH).
 - 11. **Alley.** See **Street, thoroughfares, or road.**
 - 12. **Amateur radio tower** shall mean any freestanding or building mounted structure, including any base, tower or pole, antenna, and appurtenances, intended for airway communication purposes by a person holding a valid amateur radio (HAM) license issued by the Federal Communications Commission. Amateur radio tower shall not include any tower, pole or similar structure that meets the definition of a Telecommunications Tower as defined elsewhere by this Ordinance.
 - 13. **Animal Hospital.** A place, licensed by the State of Ohio, used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and/or recuperation.
 - 14. **Appeal** shall mean a request for review of an administrative interpretation or decision made in relation to this Ordinance.
 - 15. **Applicant** shall mean, unless otherwise specified, an owner or an agent for the owner, including, a subdivider, developer, attorney, or similar representative, who has filed an application for development review pursuant to Chapter 1132.
 - 16. **Application** shall mean the process by which the owner, or their agent, of a parcel of land within the Village submits a request for any type of development review or approval identified in Chapter 1132 of this Ordinance. Applications include all written documentation, verbal statements, and representations, in whatever forms and quantities as required by the Ordinance.

RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

17. **Automated teller machine (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.
18. **Automotive body repair** shall mean a facility that provides collision repair services, including body frame straightening and repair, replacement of damaged parts, and painting.
19. **Automotive service and repair** shall mean a building, structure, or land used for the general repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including, but not limited to, muffler, oil change and lubrication, tire service and sales, installation of accessory, or engine repair.
20. **Automotive washes** shall mean the use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.
21. **Awning.** Any structure made of cloth, fiberglass or metal with a frame attached to a building and projecting into a required yard or over a public right-of-way.
22. **Banquet hall** shall mean a facility or building available for lease by private parties that may include kitchen facilities for the preparation or catering of food, the sale of alcoholic beverages for on-premises consumption during scheduled events not open to the public, and/or outdoor gardens, decks, or reception facilities.
23. **Bars and taverns** shall mean an establishment provided or dispensing, for on-site consumption, any fermented malt beverage, malt beverage, special malt, vinous, or spirituous liquors. The sale of food products including, but not limited to, sandwiches and light snacks may be a secondary use to the service of the aforementioned drinks.
24. **Basement** shall mean that portion of a structure between the floor and ceiling which is wholly or partly below grade and having more than one-half of its height below grade.
25. **Bed and breakfast establishment** shall mean any place of lodging that provides four or fewer rooms for rent on a temporary basis, is the owner's personal residence, is occupied by the owner at the time of rental, and where meals may be served to guests.
26. **Berm**, in the context of landscaping, buffer yard, or screening requirements, shall mean a mound of earth typically used to shield, screen, and buffer undesirable views and to separate potentially incompatible uses.
27. **Brewpubs** shall mean an establishment where beer, wine, spirituous liquor, or other alcoholic beverage is manufactured on the premises for distribution, retail, or wholesale, on or off premise. The maximum building footprint for such an establishment shall not exceed 25,000 square feet. Off-site distribution of alcoholic beverages shall be consistent with state law. The development may include other uses such as tasting room, taproom or table service restaurant.
28. **Buffer or buffer yard** shall mean an area of natural or planted vegetation adjoining or surrounding a land use and unoccupied in its entirety by any building structure, paving or portion of such land use, for the purposes of separating, screening, and softening the effects of the land use, no part of which buffer is used for active recreation or parking, or interior access drives. A buffer may include a wall, fence, or berm as provided in accordance with the provisions of Chapter 1138 (Landscaping and Buffering).
29. **Build.** To erect, convert, enlarge, reconstruct or structurally alter a building or structure.
30. **Buildable Area.** Space remaining on a lot after the minimum zoning requirements for yards, setbacks, coverage and allowances for panhandles, easements and restrictions have been met.

RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

31. **Building** shall mean a temporary or permanent structure having a roof supported by walls and which can be used for shelter, business, housing, or enclosure of persons, animals, motor vehicles, boats, recreational vehicles, and other goods.
32. **Building base** shall mean the structural elements, design features, and materials associated with the first floor elevation of a building façade.
33. **Building body** shall mean the remainder of the building visible between the building base and cap.
34. **Building cap** shall mean the structural elements, design features, and materials associated with the top floor elevation of a building façade.
35. **Building coverage** shall mean that portion of a lot that is, unless otherwise specified, covered by all principal and accessory buildings.
36. **Building footprint** shall mean the outline of the total area of a lot or site that is surrounded by the exterior wall of a building or portion of a building, measured at the foundation. It shall be exclusive of courtyards.
37. **Building frontage** shall mean the maximum horizontal width of the ground floor of a building that parallels and faces a public or private street or contains the main public entry. In the case where the ground floor of the building is occupied by two (2) or more different tenants, the portion of the building frontage occupied by each tenant shall be considered a separate and distinct building frontage.
38. **Building height** shall mean the vertical distance of a building as measured pursuant to Section 1134.01 (F) (Height Measurement and Requirements).
39. **BZA** shall mean the Village of Batavia Board of Zoning Appeals.
40. **Canopy tree** shall mean a deciduous tree with an expected height of at least 35 feet at maturity.
41. **Cellar**. See **Basement**.
42. **Cemetery** shall mean a place for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.
43. **Clinic** shall mean a use providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors. The term “clinic” includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.
44. **Commercial kennels or animal shelters** shall mean any lot or premises on which four or more cats or dogs, or any combination thereof (regardless of ownership), more than four months of age, are housed, groomed, bred, boarded, trained or sold, provided, however, that a kennel shall not include a veterinary or animal clinic.
45. **Contractor yards** shall mean any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.
46. **Commercial message** shall mean any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.
47. **Conditional Use**. A use permissible within a district other than a principally permitted use, requiring application for a Conditional Use Certificate and approval by the Village Planning and Zoning Commission.

RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

48. **Condominium** shall mean a multi-family dwelling or development containing individual owners' dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of a homeowners association and/or Ohio law.
49. **County** shall mean Clermont County, Ohio.
50. **Damaged or diseased trees** shall mean trees that have split trunk, broken tops, heart rot, insect or fungus problems that will lead to imminent death, undercut root systems that put the tree in imminent danger of falling, lean as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a stream or onto a structure.
51. **Day care center** shall mean a facility operated for the purpose of providing care, protection, and guidance to individuals during part of a 24-hour day. This term includes nursery schools, preschools, adult day care centers, child day care centers, or other similar uses. Day care center does not include public or private educational facilities or any facility offering care to individuals for a full 24-hour period.
52. **DBH** shall mean diameter-at-breast-height and is used to measure the caliper of a tree trunk at the specific height of 4.5 feet above the ground.
53. **Deciduous tree** shall mean a tree that drops its foliage annually before becoming dormant.
54. **Decibel** shall mean a unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".
55. **Deck** shall mean a platform, either freestanding or attached to a building, that is supported by pillars or posts and which is not enclosed.
56. **Density** shall mean the quotient of the total number of dwelling units as divided by total area of the site.
 - a. **Density, Gross** shall mean the total number of dwelling units divided by the gross area of a site (including streets, easements, rights-of-way, open space set-asides, and/or other public dedications).
57. **Developer** shall mean any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or any other legal entity proceeding under this Ordinance to effect a subdivision of land hereunder for himself or herself or for another.
58. **Development** shall mean any manmade change to improved or unimproved land, including but not limited to the construction of buildings or other structure, mining, dredging, filing, grading, paving, excavation, or drilling.
59. **Development Plan, Preliminary.** A plan for the specific development and specific use of a parcel as a planned unit development, submitted prior to the submission of a final development plan and indicating such items and features as are required pursuant to the provisions of this code.
60. **Drive-through facility** shall mean an establishment that encourages or permits customers to receive services, or obtain goods while remaining in their motor vehicles. This shall not include drive-in uses including, but not limited to, drive-in theaters and drive-in uses, where the goods are consumed in motor vehicles, on the premises.
61. **Driveway** shall mean a private way, other than a street or alley that provides access to one lot of record for the use of vehicles and pedestrians.

RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

62. **Dwelling** shall mean a building or portion thereof used exclusively for residential purposes, including single-family, two-family, and multi-family dwellings, but not including vacation rentals, hotels, motels, tents, recreational vehicle, cabins, or boarding or lodging houses.
- a. **Dwelling, Manufactured Housing.** A structure, transportable in one or more sections. Includes but not limited to mobile homes, single and double-wide manufactured housing.
 - b. **Dwelling, multi-family** shall mean a building or portion thereof designed for or used exclusively for residential purposes by three or more families or housekeeping units. Multi-family dwelling shall include apartment buildings, condominiums, elderly housing, and buildings two or more dwellings are attached by common walls or floors within a single structure.
 - c. **Dwelling, seasonal** shall mean a dwelling unit that is occupied for six months or less out of one calendar year.
 - d. **Dwelling, single-family** shall mean a building designed for or used exclusively for residential purposes by one family or housekeeping unit.
 - e. **Dwelling, two-family** shall mean a building design for or used exclusively for the residential purposes by two families or housekeeping units.
63. **Dwelling unit** shall mean a single unit of one or more rooms providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation but not including a tent, vacation rental, cabin, hotel, motel recreational vehicle, or other temporary or transient structure or facility.
64. **Easement** shall mean authorization by a property owner for the use by another, for a specified purpose, of any designated part of his or her property.
65. **Educational facilities** shall mean buildings or structures used to teach students. Educational facilities may include public or private primary schools, elementary schools, middle schools, high schools. Educational facilities shall not include, colleges, vocational schools, and other similar uses.
66. **Educational facilities, higher** shall mean buildings or structures used to teach students at a level beyond primary schools, elementary schools, middle schools, high schools. Higher educational facilities shall include, but not be limited to, public or private colleges, vocational schools, universities, training centers and other similar uses. **Entrance, primary** shall mean the place of ingress and egress to a building, parcel, or development used most frequently by the public, or facing the street from which the structure obtains its street address.
67. **Entrance, secondary** shall mean an entrance to a building that is subordinate to the primary entrance, and is typically located on a building side that does not face the primary street (the street from which the building obtains its street address).
68. **Entry drive** shall mean the part of an access drive or driveway leading to a vehicular use area.
69. **Erosion** shall mean the wearing away of the land surface by the action of wind, water, gravity, or other natural processes.
70. **Evergreen tree** shall mean a tree that remains green throughout the year with an expected height of at least 40’.
71. **Evergreen shrub** shall mean a shrub that remains green throughout the year.
72. **Excavation** shall mean the process of altering the natural grade/elevation by cutting, filling, or moving the earth, or any activity by which soil or rock is cut, dug, quarried,

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uncovered, removed, displaced, or relocated.

73. **Façade** shall mean the exterior wall of a building parallel to the frontage line or the street that fronts the parcel on which the building is located. Facades may be on the front, side, or rear elevation of the building regardless of whether the building side faces a street.
74. **Fairground shall mean** an area wherein buildings, structures, and land are used for the exhibition of livestock, farm products, etc., and/or for carnival-like entertainment.
75. **Family** shall mean a person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit.
76. **Fence** shall mean an artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.
77. **Financial institution** shall mean establishments engaged in deposit banking. Financial institutions may include, but are not limited to, commercial banks, loan or mortgage companies, stockbrokers, savings institutions, credit unions, and other similar uses.
78. **Flag** shall mean any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device.
79. **Floor area, gross** shall mean the sum of the horizontal areas of each floor of the building, measured from the exterior walls or from the center of party line walls, including the floor area of accessory buildings and structures.
80. **Floor area, net** shall mean the sum of the horizontal areas of each floor of the building, measured from the exterior walls or from the center of party line walls, including the floor area of accessory buildings and structures but excluding areas used exclusively for the parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl spaces or areas occupied by mechanical equipment, toilets, or restrooms.
81. **Foot-candle** shall mean a unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one standard candle.
82. **Fuel sales** shall mean that portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles.
83. **Funeral homes** shall mean a building or part thereof used for human funeral services and which may include space for the embalming and other services used in the preparation of the dead for burial, the storage of caskets, funeral urns, and other related supplies, the storage of funeral vehicles, facilities for cremation, chapels, and other related uses.
84. **Garage** shall mean an accessory building primarily intended for and used for the enclosed storage or shelter of private motor vehicles or other motorized and non-motorized apparatus including trailers, motorcycles, etc. of the owner or occupant of the principal building.
85. **Government offices and uses** shall mean a building or land used and/or controlled exclusively for governmental or public purposes by any department or branch of government including Village, state, county, or other recognized public entity. Such use may include, but is not limited to, Village offices, public works, libraries, post offices, and other uses not defined separately within this chapter. Government and public use shall not include schools or other educational facilities as defined elsewhere in this Ordinance. Government offices and uses shall not include safety service facilities.

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86. **Grade** shall mean:
- For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
 - For buildings having walls adjoining more than one street, the average of the elevation of the sidewalks at the centers of all walls adjoining the streets.
 - For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street.
87. **Grass** shall mean means a species of perennial grass grown as permanent lawns or for landscape purposes, as distinguished from those species grown for agricultural or commercial seed purposes.
88. **Ground cover** shall mean a plant growing less than 2 feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, Ground covers control erosion while eliminating the maintenance of mowing on hillsides. Ground covers also provide permanent covering of open ground to prevent erosion and/or create visual appeal.
89. **Group home** shall mean a residence or facility, not classified as an Adult Family Home, Adult Group Home, or other use defined in this Ordinance, where services are provided to a group of unrelated adults and where supervision and personal care services are provided to such adults.
90. **Heavy industrial uses** shall mean manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials or processes in the manufacturing or other process.
91. **Hedge** shall mean a group of shrubs planted in a continuous line or in groups that forms a continuous compact, dense, living barrier that demarcates an area from on-site or off-site views.
92. **High water mark, normal or ordinary** shall mean that mark on a waterway that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.
93. **Home occupation** shall mean an occupation or profession for financial gain or profit which is incidental to and carried on entirely within a dwelling unit located on a lot, exclusive of attached garage or patio areas, by resident occupants of the dwelling unit and which occupation is clearly incidental to and accessory to the residential use of the property.
94. **Hospital** shall mean a facility providing physical or mental health services, inpatient or over-night accommodations, and medical or surgical care of the sick or injured.
95. **Hotel and motel** shall mean a building in which lodging, with or without meals, is offered for compensation and in which there are 5 or more sleeping rooms.
96. **Household pets** shall mean any animal customarily kept by humans for companionship, including but not limited to dogs, cats, birds, rabbits, hamsters, mice, turtles, and the like.
97. **Housekeeping unit** shall mean one or more persons occupying a dwelling unit and living as a single group, and doing their own cooking on the premises as distinguished from a group occupying a bed and breakfast establishment, vacation rental, hotel, or motel.

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98. **Impervious surface coverage** shall mean that portion of a lot that is, unless otherwise specified, covered by the principal and accessory building, structures, and surfaces that
99. prevent the passage or absorption of stormwater including paving and driveways.
100. **Improvements** shall mean grading, draining, sanitary and storm sewers, water mains, pavement, curbs and gutters, sidewalks, street signs, street lights, parks, monuments and the appropriate appurtenances required to render land suitable for the use proposed.
101. **Indoor recreation and entertainment facilities** shall mean public or private recreational facilities where the principal use is located completely within an enclosed building. Such uses are generally related to the recreation or entertainment field such as bowling alleys, fitness centers, and similar activities. Indoor recreation and entertainment facilities differ from active parks, playgrounds, and recreational facilities where the principal use and activities are located outdoors.
102. **Industrial vehicle and equipment sales or service** shall mean the sale or repair of vehicles or equipment related to industrial uses, manufacturing uses, warehouses, or other services uses where the equipment is sold to or serviced for businesses and where the sales or service of equipment is not open to the general public.
103. **Inoperable vehicle** shall mean any motorized vehicle incapable of immediately being driven and not properly licensed or inspected for safety in accordance with state law.
104. **Landscaping** shall mean the improvement of a lot, parcel, tract of land, or portion thereof, with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, trees, shrubs, and ornamental objects such as fountains, statuary, and other similar natural and artificial objects.
105. **Land use** shall mean the utilization of land for trade, industry, residence, recreation or any other purpose including, but not limited thereto, all related land development activities necessary for the preparation of a site such as excavation, filling, grading, or building construction for the aforementioned uses.
106. **LDD & CSM** shall mean the Clermont County Land Development Design and Construction Standards Manual.
107. **Libraries and cultural centers** shall mean a use providing for display, performance, or enjoyment of heritage, history, or the arts. This use includes but is not limited to: museums, arts performance venues, cultural centers, or interpretive sites, but does not include commercially-operated theaters.
108. **Industrial-Office use** shall mean the manufacturing, processing, or assembly of products within a fully enclosed structure where noise, odor, light, or vibrations is not noticeable from the adjacent properties.
109. **Lighting outdoor** shall mean any source of light that is installed or mounted outside of an enclosed building or structure, but not including streetlights installed or maintained along public streets by a government agency or public utility.
110. **Livestock** shall mean generally accepted outdoor farm animals including, but not limited to, all cattle, cows or animals of the bovine species; all goats or animals of the caprine species; all horses, mules, burros, and asses or animals of the equine species, all pigs, swine or animals of the porcine species, barnyard fowl, excluding chickens, or animals of the Galliformes order llamas, alpacas or similar animals; all sheep or members of the ovine family; and etc. Livestock shall not include dogs, cats, or other household pets.
111. **Loading area/dock** shall mean an off-street space or berth for the loading or unloading of freight carriers on the same lot as the structure they serve.
112. **Lot area** shall mean the total area within the lot lines of a lot, excluding any street right-of-way or other legal public dedication.

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113. **Lot frontage** shall mean the dimension of a lot abutting a public street measured along the street right-of-way line.
114. **Lot lines** shall mean the property lines bounding the lot.
- a. **Lot line, front** shall mean the front property line, which is coterminous with the street right-of-way. A front lot line is generally parallel to or less than 45 degrees to the rear lot line. The front lot line is generally opposite the rear lot line. A corner lot or double frontage lot has more than one front lot line.
 - b. **Lot line, rear** shall mean an internal lot line opposite a front yard. A rear lot line is generally parallel to or less than 45 degrees to the front street right-of-way line. A lot line greater than 45 degrees from the front street right-of-way line would be a side lot line.
 - c. **Lot line, side** shall mean an internal lot line generally extending perpendicular to the front and rear lot lines. The side lot line extends between the front lot line and the rear lot line.
115. **Lot of record** shall mean a lot which is part of a subdivision, the map of which has been recorded in the office of the Clermont County Recorder's Office; or a parcel of land, the deed to which was of record on or prior to the effective date of this Ordinance.
116. **Lot** shall mean a parcel of land occupied or intended for occupancy by a use permitted in this Ordinance and the open spaces required by this Ordinance and having its principal frontage upon a street or place.
- a. **Lot, corner** shall mean lot abutting upon two or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of less than 135 degrees. See Figure 29.
 - b. **Lot, double frontage** shall mean shall mean a lot having a frontage on two non- intersecting streets, as distinguished from a corner lot. See Figure 29.
 - c. **Lot, panhandle or flag** shall mean a lot not fronting or abutting a public street and where access to the public street is limited to a narrow strip of land. See Figure 29.

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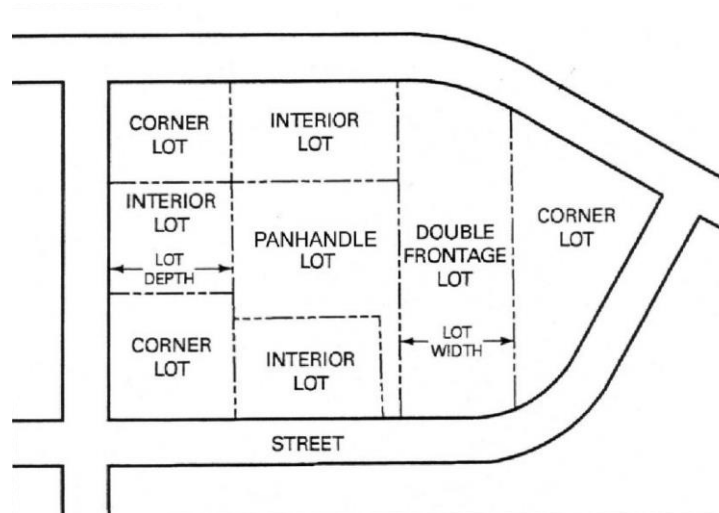


Figure 28: Illustration of lot types, lot width, and lot depth.

117. **Lot width** shall mean the horizontal distance between side lot lines measured at the required front setback or at the building line for any irregularly shaped lot. See Figure 28.
118. **Lot depth** shall mean the mean horizontal distance between the front and rear lot lines. See Figure 28.
119. **Lumen.** A unit of light quantity equal to the light on a unit surface all points of which are at a unit distance from a point source of light having a strength of one candle.
120. **Luminaire** shall mean A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.
121. **Main body (TND),** as used in Subsection 1135.16 (Traditional Neighborhood Development), shall mean the primary mass of a traditional house. Often times the main body will may be augmented by side or rear wings as well as bays, porches, and balconies.
122. **Maximum extent feasible** shall mean that no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or minimize the potential harm or adverse impacts have been undertaken. Economic considerations may be taken into consideration.
123. **Marijuana** shall mean all parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Marijuana" does not include "hemp" or a "hemp product" as those terms are defined in section 928.01 of the Revised Code.
124. **Medical Marijuana** shall mean marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.
125. **Medical Marijuana Cultivation** shall mean grow, harvest, package and transport medical marijuana pursuant to Chapter 3796 of the Revised Code.
126. **Medical Marijuana Cultivation Area shall** mean the boundaries of the enclosed areas in which medical marijuana is cultivated during the vegetation stage and flowering stage of

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- the cultivation process. Medical marijuana shall be cultivated only in the marijuana cultivation area.
127. **Medical Marijuana Dispensary** as used in Chapter 3796. of the Revised Code, means an entity licensed pursuant to sections 3796.04 and 3796.10 of the Revised Code and any rules promulgated thereunder to sell medical marijuana to qualifying patients and caregivers.
128. **Medical Marijuana Manufacturing** shall mean the process of converting harvested plant material into marijuana extract by physical or chemical means for use as an ingredient in a medical marijuana product.
129. **Medical Marijuana Plant-Only Processor** shall mean a cultivator that has received a license from the department for the limited purposes of packaging, selling, and delivering finished plant material directly to a licensed dispensary for sale to a patient or caregiver.
130. **Medical Marijuana Processor** as used in Chapter 3796. of the Revised Code shall mean an entity that has been issued a certificate of operation by the department to manufacture medical marijuana products.
131. **Medical Marijuana Purpose** shall mean the acquisition; administration; delivery; possession; transfer; transportation; or use of medical marijuana to treat or alleviate a registered patient's qualifying medical condition or symptoms associated with the patient's qualifying medical condition.
132. **Medical Marijuana Testing Laboratory** shall mean an independent laboratory that has been issued a certificate of operation by the Ohio Department of Commerce to have custody and use of controlled substances for scientific and medical purposes and for purposes of instruction, research, or analysis.
133. **Microbreweries, Microdistilleries or Microwineries** shall mean an establishment where beer, wine, spirituous liquor, or other alcoholic beverage is manufactured on the premises for distribution, retail, or wholesale, on or off premise. The maximum building footprint for such an establishment shall not exceed 50,000 square feet. Off-site distribution of alcoholic beverages shall be consistent with state law. The development may include other uses such as a taproom or table service restaurant.
134. **Mixed-use building** shall mean a structure containing two or more different residential and nonresidential uses.
135. **Mobile home** shall mean an industrialized building unit constructed on a chassis for towing to the point of use, designed to be used with or without a permanent foundation and intended to be occupied as a dwelling.
136. **Multi-stem variety** tree shall mean a canopy or understory tree having two or more primary stems or trunks, each of which is included within the determination of caliper or DBH.
137. **Neckdown** shall mean a series of devices or curb extensions that alternate from one side of the street to the other intended to narrow the street cartway width. Also referred to as S-curves, serpentine, or reversing curves.
138. **Net acre** shall mean an acre of land that does not include streets, easements, rights-of-way, open space set-asides, and/or other public dedications.
139. **Nit** shall mean the measurement of the amount of light a bulb produces. It is given in nits or one (10 candela per square meter (cd/m²). One (1) nit is equal to one (1) cd/m². For the purposes of this Zoning Code, 5,000 Nits equals 464.5 candela per square foot and 1,000 Nits equals 92.9 candela per square foot.

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140. **Nonconformities** shall mean lots, uses of land, structures, and uses of structures and land in combination, lawfully existing at the time of enactment of this Ordinance or its amendments, which do not conform to the regulations of the district or zone in which they are situated, and are therefore incompatible.
141. **Nonconforming site condition** shall mean any lot, building or structure lawfully existing on the effective date of this Ordinance or any amendment or supplement thereto, which does not conform to the use regulations of the district in which it is situated.
142. **Nonconforming use** shall mean any building or land lawfully occupied by a use on the effective date of this Ordinance or any amendment or supplement thereto, which does not conform to the use regulations of the district in which it is situated.
143. **Noxious matter or materials** shall mean matter or material which is capable of causing injury or discomfort to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals as determined by the Clermont County Combined Health District.
144. **Nurseries and greenhouses** shall mean a buildings and enclosures used for the cultivation and protection of plants.
145. **Nursing home and assisted living facility** shall mean a boarding facility for the extended care of babies, children, pensioners or elderly persons who may be mentally or physically infirm. Assisted living facility shall mean A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living.
146. **Offices and professional services** shall mean establishments providing executive, management, administrative, or professional services including, but not limited to, real estate, architecture, legal, travel, medical, dental, employment, advertising, design, engineering, accounting, and similar uses.
147. **Octave band** shall mean a means of dividing the range of sound frequencies in order to classify sound according to pitch.
148. **Octave band filter** shall mean an electrical frequency analyzer designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.
149. **Odorous matter** shall mean any matter or material that yields an odor which is offensive in any way to a person with reasonable sensitivity.
150. **Opacity** means the screening effectiveness expressed as the percentage of vision that the fence, wall or hedge blocks.
151. **Open space** shall mean land and water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.
152. **ORC** shall mean the Ohio Revised Code.
153. **Ornamental shrub** shall mea a deciduous shrub with visual appeal through flowers, fruit, leaf color, or fall colors.
154. **Ornamental tree** shall mean a small to medium tree with a expected height of 20 feet at maturity and that that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.
155. **Outdoor displays or sales** shall mean an outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service. For the purposes of this Ordinance, objects or materials weighing over 20 lbs shall be considered outdoor storage.

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156. **Outdoor storage** shall mean the keeping of any goods, materials, merchandise, or vehicles outside of a structure or building for more than 48 hours. Outdoor storage shall not include car lots, tool rental establishments, greenhouses, or other uses where the sale of the merchandise is the primary use of the property pursuant to Section 1135.13 (Outdoor Display, Sales, and Storage).
157. **Parking aisle** shall mean the driveway or access drive by which a car enters and departs a parking space.
158. **Parking area** shall mean the entire paved area that encompasses all parking spaces and the access drives that provided access to those spaces but that does not include the entry drive or driveway with no direct access to a parking space.
159. **Parking lot or garage** shall mean a lot or structure designed to accommodate vehicular parking spaces. A parking garage is a structure that is fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.
160. **Parking space** shall mean a graded and surfaced area, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street, alley or parking aisle.
161. **Particulate matter** shall mean any material, except uncombined water, which exists in a finely divided, suspended form as a liquid or solid at standard conditions.
162. **Passive parks, open space, and conservation areas** shall mean any park or recreational facility where there is no grading of the land, the construction of facilities, lighting, or development of ball fields with the exception that passive parks, recreational facilities, and conservation areas may include the development of trails and sidewalks.
163. **Personal service establishments** shall mean establishments that primarily engaged in providing services generally involving the care of the person or person's possessions. Personal services may include, but are not limited to, laundry and dry-cleaning services, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.
164. **Planned Unit Development (PUD)** shall mean a large scale, unified land development which permits a mixture of land uses, clustering of residential units, and common recreation/open spaces through flexible regulations which encourage creative design to preserve the natural features, foliage, and other characteristics of the site.
165. **Porch** shall mean a covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.
166. **Principal building** shall mean the building containing the main or principal uses of the lot.
167. **Public tree** shall mean any tree located or planted in a right-of-way or on public property.
168. **Railroad rights-of-way** shall mean a strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.
169. **Raising of crops** shall mean the use of land for field and orchard uses including production of field crops, flowers and seeds, fruits, grains, melons, ornamental crops, tree nuts, trees and sod, vegetables. Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing, and sales in the field not involving a permanent structure.

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170. **Raising of Livestock** shall mean the use of land for dairying, animal raising, breeding, keeping as pets or pasturage of livestock and the necessary accessory uses; provided, however, that such accessory uses shall be secondary to that of normal animal husbandry activities. The above uses shall not include the commercial feeding of garbage or offal to swine or other animals.
171. **Ramp** shall mean a structure attached to a principal building that is constructed at a slope that meets the requirements of the applicable building and safety codes that provides access to a building.
172. **Research facilities and laboratories** shall mean a building for research, development, and testing laboratories that does not involve the mass manufacture, fabrication, processing, or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard as specified herein.
173. **Recreational vehicle** shall mean a vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven, which may be designed as temporary living accommodations, and is used for recreational, camping, and travel use. Recreational Vehicles may include, but are not limited to truck trailers, truck campers, pop-up tents, boats, jet skis, personal watercraft, snowmobiles, camping trailers, and self-propelled campers.
174. **Recreational vehicle park** shall mean a lot used for commercial or recreation purposes where people may buy, rent, or use a portion of the lot to set up and use recreational vehicles.
175. **Religious places of worship** shall mean an institution that congregations of people regularly attend to participate in or hold religious services, meetings, and other activities, including buildings in which the religious services of any denomination are held.
176. **Restaurant** shall mean an establishment whose principal business is the selling of food and beverages to the customer in a ready to consume state, in individual servings.
177. **Restaurant, drive-in** shall mean an establishment whose primary business is serving food to the public for consumption on the premises by order from and service to vehicular passengers outside the principal building.
178. **Retail and service commercial uses** shall mean establishments primarily engaged in the sale of goods and materials to the general public. Retail commercial uses may include, but are not limited to, bookstores, antique stores, convenience stores, bakeries, grocery stores, and other similar uses. Service commercial uses are primarily engaged in rendering services to businesses including, but not limited to, printers, equipment rental, protective services, mailing, photo finishing, and other similar uses.
179. **Reverse Frontage** shall mean the orientation of a building on a lot bounded by more than one street that results in the rear of the building abutting or facing a public street.
180. **Rezoning** shall mean an amendment to the Official Zoning Map of the Village of Batavia.
181. **Right-of-way** shall mean a strip of land taken or dedicated for use as a public way. In addition to the roadway, a right-of-way normally incorporates the curbs, lawn strips, sidewalks, lighting, water and sewer lines, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.
182. **Riparian setback** shall mean the area set back from the ordinary high water mark on each bank of a stream to protect the riparian area and stream from impacts of development, and streamside residents from impacts of flooding and land loss through erosion.

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183. **Roadside stand** shall mean a structure used or intended to be used solely by the owner or the tenant of a property on which it is located for the sale of seasonal agricultural products produced on the premises.
184. **Safety service Facility** shall mean a public facility providing services necessary for the safety of the residents of the Village, including police, fire protection and rescue activities, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants, and other similar public service structures operated by a public utility, by a railroad, whether publicly or privately owned, or by a Village or other governmental agency.
185. **Satellite dish** shall mean a parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals.
186. **Self-storage facilities** shall mean a building or group of buildings in a controlled access compound that contains equal or varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of residential or commercial customer's goods or wares. Such facilities do not include sales, service, or storage of hazardous materials.
187. **Setback line** shall mean a line established by this ordinance, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than an accessory structure, may be located above ground, except as may be provided in this ordinance. (See Yard)
188. **Short Term Rental** shall mean a house or room for rent that is not categorized as a Bed and Breakfast or Vacation Rental.
189. **Side or rear wing (TND)** shall mean massing forms of a house subordinate to the main body attaching to the side or rear faces of the main body. Side or rear wings are usually one to one and a half stories and are set back from the front facade of the house. Wings are limited to a maximum width of one third the width of the main facade.
190. **Sign** shall mean any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway.
- a. **Sign, abandoned** shall mean a sign which no longer identifies or advertises a bona fide business, lesser, service, owner, product, or activity, and/or for which no legal owner can be found.
 - b. **Sign, awning** shall mean a sign painted on, printed on, or permanently attached flat against the surface of a canopy, marquee, or awning.
 - c. **Sign, bench** shall mean a sign located on the seat or back of a bench or seat placed on or adjacent to a public right-of-way.
 - d. **Sign, changeable copy** shall mean a sign designed to allow the changing of copy through manual, mechanical, or electronic means, including time and/or temperature signs. The sign copy or display message shall be static and motionless for the duration of the display.
 - e. **Sign, driveway** shall mean a sign directing or guiding traffic and parking on private property.
 - f. **Sign, Electronic Message Center** shall mean a sign or a portion of a sign with a sign copy composed of a series of lights that alternates and changes in frequent intervals through electronic means (i.e. animation, intermittent flashing, etc.), including, but not limited to, television screens, plasma screens, digital screens,

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holographic displays and LED (light emitting diode) technology. An electronic message center sign shall not be considered a changeable copy sign.

- g. **Sign, ground mounted** shall mean any sign placed upon or supported by the ground independent of any other structure.
 - h. **Sign, individual letter** shall mean letters and/or numbers individually fashioned from metal, glass, plastic or other materials and attached directly to the wall of a building, but not including a sign painted on a wall or other surface.
 - i. **Sign, nonconforming** shall mean a sign that is erected legally but which does not comply with subsequently enacted sign restrictions and regulation. A nonconforming sign is also a sign that does not conform to the sign requirements but for which a special permit has been issued.
 - j. **Sign, Off-Premises** shall mean any sign, including billboards, that advertises or otherwise directs attention to an activity not on the same lot where the sign is located.
 - k. **Sign, On-Premise** shall mean a sign, which advertises or otherwise directs attention to an activity on the same lot where the sign is located.
 - l. **Sign, projecting or right-angle sign** shall mean a sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from the wall of such building.
 - m. **Sign, roof** shall mean a sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eaves line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
 - n. **Sign, snipe** shall mean a sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects and which is located within the public right-of-way.
 - o. **Sign, temporary** shall mean a nonpermanent sign erected, affixed, and maintained on a premises for a short, usually fixed, period of time.
 - p. **Sign, wall** shall mean a sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than 12 inches from such building or structure.
 - q. **Sign, window** shall mean a sign that is applied or attached to the exterior or interior of a window or located in such manner within the building that it can readily be seen from the exterior of the building through a window. Neon signs hanging in windows shall also be classified as a window sign in accordance with Chapter 1139 (Signs).
- 191. **Sign area** shall mean the entire area of the sign as measured according to Section 1139.04 (Computations).
 - 192. **Sign copy** shall mean any graphic, word numeral, symbol, insignia, text, sample, model, device or combination thereof, which is primarily intended to advertise, identify, or notify.
 - 193. **Sign face** shall mean the area or display surface used for the message.
 - 194. **Sign height** shall mean the vertical distance measured from the lowest adjacent grade to the highest point of the sign or sign structure.
 - 195. **Social clubs and fraternal organizations** shall mean a building or portion thereof or premises owned or operated by a corporation, association, or group of persons for a social, educational, or recreational purpose, but not primarily for profit or to render a

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- service which is customarily carried on as a business.
196. **Specified anatomical areas** shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola; human male genitals in a discernibly turgid state even if completely and opaquely covered.
197. **Specified sexual activities** shall mean human genitals in a state of sexual stimulation or arousal; acts, real or simulated, of human fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.
198. **Stacking space** shall mean a lane or area that is specifically designated for cars to “stack” in while utilizing drive-up or drive-through services at uses that may include, but are not limited to, car washes, restaurants, and financial institutions.
199. **Stormwater management** shall mean a plan in which runoff water from a development is safely dispersed at an allowable rate to minimize erosion and flooding.
200. **Story** shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. For purposes of this Ordinance, a basement shall not be counted as a story.
201. **Story, half** shall mean a story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story.
202. **Stream** shall mean a surface watercourse with a well-defined bed and bank, either natural or artificial, which confines and conducts continuous or periodical flowing water in such a way that terrestrial vegetation cannot establish roots within the channel.
203. **Street, thoroughfares, or road** shall mean all property dedicated or intended or used, whether public or private, for vehicular and pedestrian movement, including street, highway, freeway or other motorway right-of-way, and, except where limited or controlled access, affording the principal means of access to abutting property.
- a. **Alley** shall mean a public or private way which affords only secondary means of access to abutting properties.
 - b. **Street, arterial** shall mean public thoroughfares which serve the major movements of traffic within and through the community as identified in the Village's official Thoroughfare Plan.
 - c. **Street, collector** shall mean public thoroughfares which serve to collect and distribute traffic primarily from local to arterial streets.
 - d. **Street, cul-de-sac** shall mean a local street having one end open to vehicular traffic and the other end permanently closed with a vehicular turnaround.
 - e. **Street, frontage road** shall mean a street adjacent to a freeway, expressway, or arterial street separated therefrom by a dividing strip and providing access to abutting properties.
 - f. **Street, local** shall mean roadways which are designed to be used primarily for direct access to abutting properties and feeding into the collector street system.
 - g. **Street, private** shall mean a right-of-way which provides vehicular and pedestrian access to residential, commercial or industrial structures or groups of structures, and is not dedicated. For the purposes of density calculations, a private street shall constitute the areas of its paved surface and sidewalks or the private right-of-way if designated on the recorded plat.
 - h. **Street, public** shall mean a public roadway, constructed within the boundaries of an officially deeded and accepted public right-of-way, which affords principal means of access to abutting property. For purposes of density calculations, a

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- public street shall constitute all of the area within the public right-of-way.
204. **Structure** shall mean anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, including buildings, walls, advertising signs, billboards, roadside stands, fences, pools, decks and tents.
205. **Subdivider** shall mean an individual, firm, association, corporation, trust or other legal entity, including their agents, commencing proceedings under these Regulations to subdivide land.
206. **Subdivision** shall mean:
- a. The division of any parcel of land shown as a unit or as contiguous units on the tax rolls as of January 6, 1959, into two or more parcels, sites or lots, and one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five acres, not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or
 - b. The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extending of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or leaseholders, or as easements for the extension and maintenance of public sewers, water, storm drainage or other public facilities.
207. **Swimming pool** shall mean a structure, whether above or below grade level, designed to hold water more than 30 inches deep to be used for recreational purposes.
208. **Telecommunications** shall mean the technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.
209. **Telecommunication Co-locations** shall mean the installation of telecommunication equipment and/or antennas for commercial use on an existing cell towers or similar support structures.
210. **Telecommunication Tower** shall mean a tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purpose above ground in a fixed location, freestanding, guyed, or on a building or other structures. Telecommunication Towers shall not include any tower, pole or similar structure used exclusively for government agency's that meets the definition of a governmental use as defined elsewhere by this ordinance.
211. **Temporary storage in portable containers** shall mean a portable structure or container that allows for storage of goods or materials, on or off-site and which is not permanently affixed to a foundation. Temporary storage containers can include semi-tractor trailers if they are used for storage and not transport.
212. **Theater** shall mean a building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.
213. **Type-A family day care** shall mean a permanent residence of the provider in which child day care or publicly funded day-care is provided for 7 to 12 children at one time or is the permanent residence of the provider in which child day care is provided to 4 to 12 children at one time if 4 or more children are under 2 years of age at one time. In counting children for the purposes of this definition, any children under 6 years of age

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- who are related to the provider and who are on the premises of the Type-A day care home shall be counted. Type-A day care homes do not include homes where all of the children being cared for are siblings and the residence is the home of the siblings. Type A day cares homes do not include any child day camp as defined in ORC Section 5104.01 .
214. **Type-B family day care** shall mean a permanent residence of the provider in which child day care is provided for 1 to 6 children at one time and in which no more than 3 children are under 2 years of age at one time. In counting children for the purposes of this definition, any children under 6 years of age who are related to the provided and who are on the premises of the Type-B day care home shall be counted. Type-B day care homes do not include homes where all of the children being cared for are siblings and the residence is the home of the siblings. Type-B day cares homes do not include any child day camp as defined in ORC Section 5104.01.
215. **Understory tree** A small to medium tree, growing 15 to 40 feet at maturity and often used for aesthetic purposes, such as colorful flowers, interesting bark, or fall foliage.
216. **Unenclosed Outdoor Storage**- Storage of items or materials, covered or uncovered, not enclosed in a structure with four walls, a roof, and doors.
217. **Use** shall mean any purpose for which a lot, building, or other structure, or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.
- a. **Use, Temporary** shall mean shall mean a use that may be permitted for a specified period of time. Temporary uses may require a temporary zoning permit in compliance with Section 1133.16 (Temporary Uses) and may be subject to additional building and zoning requirements.
- b. **Use, Principal** shall mean the primary or main use of any lot.
218. **Vacation Rental** shall mean a building unoccupied by its owner in which lodging, with or without meals, is offered for compensation.
219. **Variance** shall mean a modification of a provision of this ordinance where such modification will not be contrary to the public interest and where, due to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.
220. **Vehicle** shall mean any contrivance that is used in the public or private transportation of one or more persons, is used in the transportation of goods over public or private property or roadways, or is used in a commercial or agricultural enterprise. A contrivance that is designed to be pushed, pulled or towed by any self-propelled vehicle is considered a vehicle.
221. **Vehicle sales and rental** shall mean a facility where new or used cars, motorcycles, and other light load vehicles are sold, leased or rented.
222. **Veterinarian clinic** shall mean a place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations in a wholly enclosed building on the premises only for treatment, observation and/or recuperation.
223. **Village Engineer** shall mean the Village of Batavia Village Engineer.
224. **Village Council** shall mean the Village of Batavia Village Council.
225. **Violation** shall mean the failure of a structure or other development to be fully compliant with this Ordinance.
226. **Warehouse** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials

RULES OF CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.

227. **Wetlands** shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands includes swamps, marshes, bogs, and similar areas that are delineated in accordance with the 1987 United States Army Corps of Engineers Wetland Delineation Manual and any other procedures and requirements adopted by the United States Army Corps of Engineers for delineating wetlands.
228. **Wholesale Commercial Use** shall mean the sale of merchandise to retail and service commercial uses, office uses, or institutional uses, or to other wholesalers. Wholesale commercial uses may also mean acting as an agent or broker in the buying or selling of merchandise; but not selling to the general public.
229. **Yard** shall mean an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the nearest portion of the main building shall be used.
- a. **Yard, Front** shall mean a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than the projection of the usual steps or entranceway.
 - b. **Yard, Rear** shall mean a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the main building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches.
 - c. **Yard, Side** shall mean a yard between the main building and the side lot line of the lot extending from the front yard to the rear yard.
230. **Zoning District** shall mean a section or sections of the incorporated territory of the Village of Batavia for which regulations governing the use of buildings and premises, the height of buildings, development standards, yards, lot areas, and other standards are uniform.

APPENDIX A – PLANT LIST

In general, ash tree varieties are prohibited. Other Ohio tree species not on this list may be permitted if approved by the Village Zoning Department. Any such approved trees should be native and hardy to zone 5-6 of the United States Department of Agriculture Plant Hardiness Zone Map.

Prohibited Street / Sidewalk Trees

Scientific Name	Common Name	Reason
<i>Acer negundo</i>	Box Elder	Poor Branch Structure
<i>Acer platanoides</i>	Norway Maple	Invasive Tendencies
<i>Acer saccharinum</i>	Silver Maple	Poor Branch Structure
<i>Aesculus spp.</i>	Buckeye, Horse Chestnut	Messy fruit
<i>Ailanthus altissima</i>	Tree of Heaven	Aggressively Invasive
<i>Alnus glutinosa</i>	Black Alder	Invasive Tendencies
<i>Betula papyrifera</i>	Paper Birch	Poor Branch Structure/Insects
<i>Betula pendula</i>	European White Birch	Poor Branch Structure/Insects
<i>Catalpa speciosa</i>	Northern Catalpa	Poor Branch Structure
<i>Fraxinus spp.</i>	Ash	Emerald Ash Borer
<i>Ginkgo biloba</i>	Ginkgo (female)	Messy fruit
<i>Maclura pomifera</i>	Osage-orange, Hedge Apple	Messy fruit
<i>Malus pumila</i>	Apple	Messy fruit/Disease
<i>Morus spp</i>	Mulberry	Messy fruit
<i>Phellodendron amurense</i>	Amur Cork	Invasive Tendencies
<i>Populus spp</i>	Cottonwood, Aspen	Messy/Spreading Growth Habit
<i>Pyrus calleryana</i>	Callery Pear (All cultivars)	Aggressively Invasive
<i>Quercus robur</i>	Upright English Oak v. fastigiata	Poor Branch Structure
<i>Robinia pseudoacacia</i>	Black Locust	Poor Branch Structure
<i>Salix spp</i>	Willow	Poor Branch Structure
<i>Ulmus pumila</i>	Siberian Elm	Poor Branch Structure

Street / Sidewalk Tree Recommendations

*Limit use due to overplanting

Small Street / Sidewalk Trees with Narrow Crowns

Suitable for tree lawns 4 to 6 feet wide and tree lawns under wires

Scientific Name	Common Name
<i>Acer truncatum</i>	Shantung Maple*
<i>Amelanchier arborea</i>	Downy Serviceberry
<i>Amelanchier canadensis</i>	Shadblow Serviceberry
<i>Amelanchier x grandiflora</i>	Apple Serviceberry
<i>Amelanchier laevis</i>	Alleghany Serviceberry
<i>Carpinus caroliniana</i>	American Hornbeam
<i>Cercis canadensis</i>	Eastern Redbud
<i>Cornus kousa</i>	Kousa Dogwood (tree form)
<i>Cornus mas</i>	Cornelian-cherry Dogwood
<i>Prunus serrulata</i>	Japanese Flowering Cherry
<i>Syringa reticulata</i>	Japanese Tree Lilac*

Medium Street / Sidewalk Trees

Suitable for tree lawns 6 to 8 feet wide, not located under wires

Scientific Name	Common Name
<i>Acer buergerianum</i>	Trident Maple*
<i>Carpinus caroliniana</i>	American Hornbeam
<i>Cladrastis kentukea</i>	Yellowwood
<i>Cornus kousa</i>	Kousa Dogwood (tree form)
<i>Diospyros virginiana</i>	Persimmon (male)
<i>Nyssa sylvatica</i>	Black Gum
<i>Ostrya virginiana</i>	Eastern Hophornbeam
<i>Ulmus</i> 'Frontier'	Frontier Elm
<i>Ulmus</i> 'New Horizon'	New Horizon Elm

Large Street / Sidewalk Trees

Suitable for tree lawns at least 8 feet wide, not located under wires

Scientific Name	Common Name
<i>Acer x freemanii</i>	Freeman Maple*
<i>Acer nigrum</i>	Black Maple*
<i>Acer pseudoplatanus</i>	Sycamore Maple*
<i>Acer rubrum</i>	Red Maple*
<i>Acer saccharum</i>	Sugar Maple*
<i>Celtis laevigata</i>	Sugar Hackberry
<i>Celtis occidentalis</i>	Hackberry
<i>Cercidiphyllum japonicum</i>	Katsura Tree
<i>Corylus colurna</i>	Turkish Filbert (Hazelnut)
<i>Eucommia ulmoides</i>	Hardy Rubber Tree
<i>Fagus sylvatica</i>	European Beech
<i>Ginkgo biloba</i>	Ginkgo (male only)
<i>Gleditsia triacanthos f. inermis</i>	Honeylocust, thornless
<i>Gymnocladus dioica</i>	Kentucky Coffeetree
<i>Liquidambar styraciflua</i>	Moraine Sweetgum
<i>Liriodendron tulipifera</i>	Tulip-tree
<i>Nyssa sylvatica</i>	Black Gum
<i>Platanus x acerfolia</i>	London Planetree
<i>Platanus occidentalis</i>	Sycamore
<i>Quercus alba</i>	White Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus imbricaria</i>	Shingle Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus muehlenbergii</i>	Chinkapin Oak
<i>Quercus rubra</i>	Northern Red Oak
<i>Taxodium distichum</i>	Bald Cypress
<i>Tilia americana</i>	Linden (Basswood)
<i>Tilia tomentosa</i>	Silver Linden
<i>Ulmus</i> 'Morton Stalwart'	Commendation Elm
<i>Ulmus parvifolia</i>	Lacebark Elm
<i>Ulmus</i> 'Patriot'	Patriot Elm
<i>Ulmus americana</i> 'Princeton'	Princeton Elm
<i>Ulmus davidiana</i> var. <i>japonica</i>	Prospector Elm
<i>Ulmus</i> 'Morton Glossy'	Triumph Elm

<i>Zelkova serrata</i>	Japanese Zelkova
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General Landscaping Plant Recommendations

Small Trees

Scientific Name	Common Name
<i>Acer palmatum</i>	Japanese Maple*
<i>Acer truncatum</i>	Shantung Maple*
<i>Aesculus glabra</i>	Ohio Buckeye
<i>Aesculus pavia</i>	Red Buckeye
<i>Amelanchier arborea</i>	Downy Serviceberry
<i>Amelanchier canadensis</i>	Shadblow Serviceberry
<i>Amelanchier x grandiflora</i>	Apple Serviceberry
<i>Amelanchier laevis</i>	Alleghany Serviceberry
<i>Betula populifolia</i>	Gray Beech
<i>Carpinus betulus</i>	European Hornbeam
<i>Carpinus caroliniana</i>	American Hornbeam
<i>Cercis canadensis</i>	Eastern Redbud
<i>Chionanthus virginicus</i>	Fringe Tree
<i>Cornus alternifolia</i>	Pagoda Dogwood
<i>Cornus florida</i>	Flowering Dogwood
<i>Cornus kousa</i>	Kousa Dogwood
<i>Cornus mas</i>	Cornelian-cherry Dogwood
<i>Cornus x rutgersensis</i>	Hybrid Flowering Dogwood
<i>Crataegus crus-galli</i> var. <i>inermis</i>	Hawthorn, Thornless
<i>Magnolia lilliflora</i>	Lily Magnolia
<i>Magnolia soulangiana</i>	Saucer Magnolia
<i>Magnolia stellata</i>	Star Magnolia
<i>Magnolia virginiana</i>	Sweetbay Magnolia
<i>Malus varieties</i>	Crabapple
<i>Prunus serrulata</i>	Japanese Flowering Cherry
<i>Syringa reticulata</i>	Japanese Tree Lilac*

Medium Trees

Scientific Name	Common Name
<i>Acer buergerianum</i>	Trident Maple*
<i>Acer griseum</i>	Paperbark Maple*
<i>Betula nigra</i>	River Birch
<i>Carpinus caroliniana</i>	American Hornbeam
<i>Cladrastis kentukea</i>	Yellowwood
<i>Cornus kousa</i>	Kousa Dogwood (tree form)
<i>Diospyros virginiana</i>	Persimmon
<i>Halesia tetraptera</i>	Silverbell
<i>Nyssa sylvatica</i>	Black Gum
<i>Ostrya virginiana</i>	Eastern Hophornbeam
<i>Prunus sargentii</i>	Sargent Cherry
<i>Quercus acutissima</i>	Sawtooth Oak
<i>Tilia cordata</i>	Littleleaf Linden
<i>Ulmus 'Frontier'</i>	Frontier Elm
<i>Ulmus 'New Horizon'</i>	New Horizon Elm

Large Trees

Scientific Name	Common Name
<i>Acer x freemanii</i>	Freeman Maple*
<i>Acer nigrum</i>	Black Maple*
<i>Acer pseudoplatanus</i>	Sycamore Maple*
<i>Acer rubrum</i>	Red Maple*
<i>Acer saccharum</i>	Sugar Maple*
<i>Aesculus flava</i>	Yellow Buckeye
<i>Carya cordiformis</i>	Bitternut Hickory
<i>Carya tomentosa</i>	Mockernut Hickory
<i>Carya glabra</i>	Pignut Hickory
<i>Carya ovata</i>	Shagbark Hickory
<i>Carya laciniosa</i>	Shellbark Hickory
<i>Celtis laevigata</i>	Sugar Hackberry
<i>Celtis occidentalis</i>	Hackberry
<i>Cercidiphyllum japonicum</i>	Katsura Tree
<i>Corylus colurna</i>	Turkish Filbert (Hazelnut)
<i>Eucommia ulmoides</i>	Hardy Rubber Tree
<i>Fagus grandifolia</i>	American Beech
<i>Fagus sylvatica</i>	European Beech
<i>Ginkgo biloba</i>	Ginkgo (male only)
<i>Gymnocladus dioica</i>	Kentucky Coffeetree
<i>Juglans nigra</i>	Black Walnut
<i>Liquidambar styraciflua</i>	Moraine Sweetgum
<i>Liriodendron tulipifera</i>	Tulip-tree
<i>Magnolia acuminata</i>	Cucumber Magnolia
<i>Metasequoia glyptostroboides</i>	Dawn Redwood
<i>Nyssa sylvatica</i>	Black Gum
<i>Platanus x acerfolia</i>	London Planetree
<i>Platanus occidentalis</i>	Sycamore
<i>Quercus alba</i>	White Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus imbricaria</i>	Shingle Oak
<i>Quercus macrocarpa</i>	Bur Oak
<i>Quercus muehlenbergii</i>	Chinkapin Oak
<i>Quercus palustris</i>	Pin Oak
<i>Quercus phellos</i>	Willow Oak
<i>Quercus robur</i>	English Oak
<i>Quercus rubra</i>	Northern Red Oak
<i>Quercus shumardii</i>	Shumard Oak
<i>Sassafras albinum</i>	Sassafras
<i>Styphnolobium japonicum</i>	Japanese Pagodatree
<i>Taxodium distichum</i>	Bald Cypress
<i>Tilia americana</i>	Linden (Basswood)
<i>Tilia tomentosa</i>	Silver Linden
<i>Ulmus 'Morton Stalwart'</i>	Commendation Elm
<i>Ulmus parvifolia</i>	Lacebark Elm
<i>Ulmus 'Patriot'</i>	Patriot Elm
<i>Ulmus americana 'Princeton'</i>	Princeton Elm

<i>Ulmus davidiana</i> var. <i>japonica</i>	Prospector Elm
<i>Ulmus</i> ‘Morton Glossy’	Triumph Elm
<i>Zelkova serrata</i>	Japanese Zelkova

Evergreen Trees

Scientific Name	Common Name
<i>Abies concolor</i>	White Fir
<i>Ilex opaca</i>	American Holly
<i>Juniperus scopulorum</i>	Wichita Blue Juniper
<i>Juniperus virginiana</i>	Eastern Red Cedar
<i>Picea abies</i>	Norway Spruce
<i>Picea onorika</i>	Serbian Spruce
<i>Picea pungens</i>	Colorado Blue Spruce
<i>Pinus strobus</i>	Eastern White Pine
<i>Pinus sylvestris</i>	Scotch Pine
<i>Thuja occidentalis</i>	Arborvitae
<i>Thuja plicata</i>	Giant Arborvitae
<i>Tsuga canadensis</i>	Eastern Hemlock

Evergreen Shrubs or Hedges

Scientific Name	Common Name	Specie Cultivars
<i>Buxus microphylla</i>	Boxwood	
<i>Ilex crenata</i>	Japanese Holly	Microphylla
<i>Ilex glabra</i>	Shamrock Inkberry Holly	Shamrock
<i>Ilex x mesog</i>	China Girl Holly	China Girl
<i>Ilex x mesdob</i>	China Boy Holly	China Boy
<i>Ilex x meserveae</i>	Blue Girl Holly	Blue Girl
<i>Ilex x meserveae</i>	Blue Boy Holly	Blue Boy
<i>Juniperus chinensis</i>	Chinese Jupiter	Hetzil or Mint Julip
<i>Juniperus procumbens</i>	Japanese Garden Juniper	Green Mound
<i>Juniperus squamata</i>	Singleseed Juniper	Blue Star
<i>Juniperus virginiana</i>	Red Cedar	Grey Owl
<i>Juniperus x pfiteriana</i>	Chinese juniper	Sea Green
<i>Picea abies</i> ‘Nidiformis’	Birdsnest Spruce	
<i>Pinus mugo</i>	Mugo Pine	
<i>Taxus cuspidate</i>	Japanese Yew	Capitata
<i>Taxus x media</i>	Spreading Yew	Hicks
<i>Viburnum rhytidophyllum</i>	Leatherleaf Viburnum	

This is not meant to be an exhaustive list of tree species that grow well in zone 5-6. If there are questions or concerns about this list or an additional species, please contact the Natural Resources Coordinator.

APPENDIX B – BERM TYPES

The following are example of berms and hills that may be used as part of the required buffers.

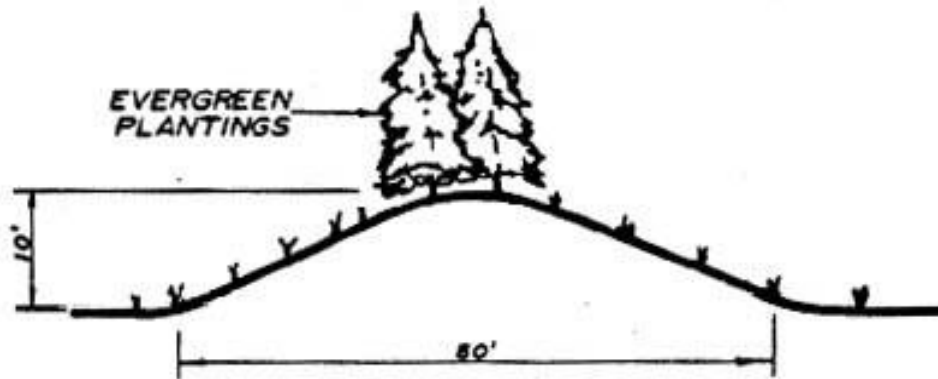
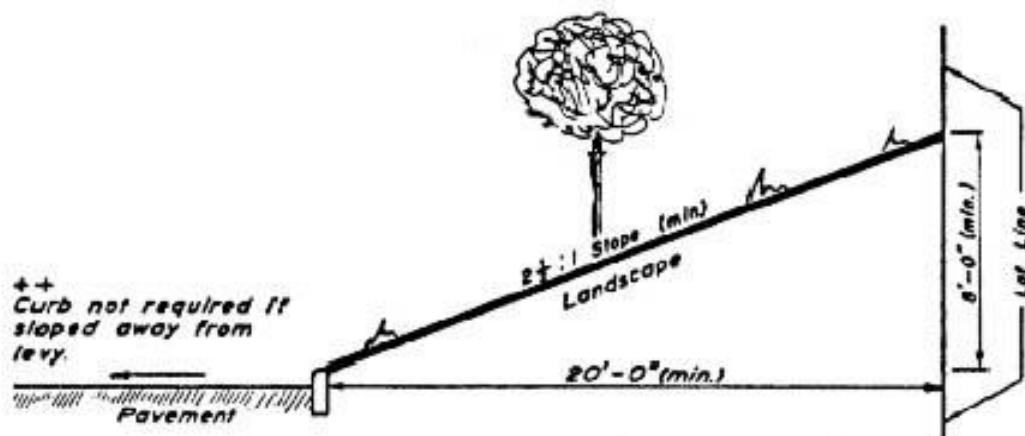


Figure 29: Illustration of an earth mound.



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Figure 30: Illustration of a hill buffer.

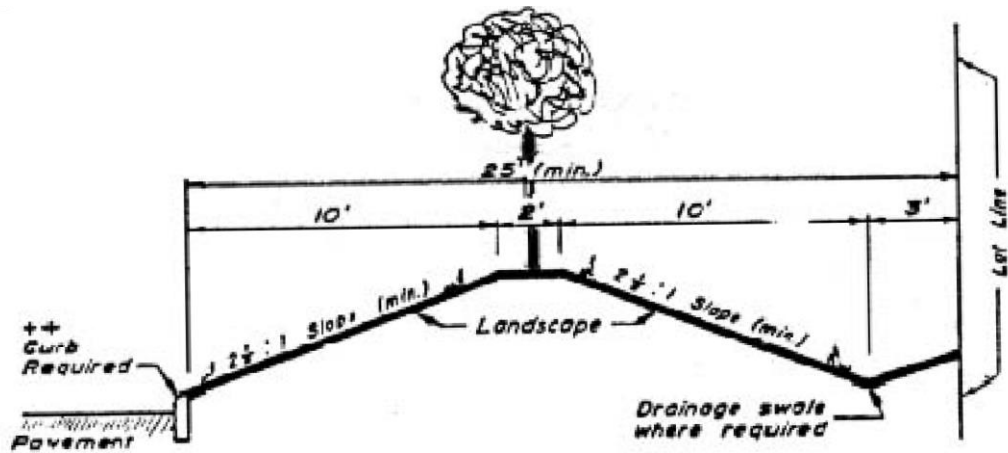


Figure 31: Illustration of an earth levy.

