

# Village of Piketon

## Zoning Ordinance Update



April 2013

# TABLE OF CONTENTS

<b>Chapter 1: General Provisions.....</b>	<b>1-1</b>
Section 1.01: Title.....	1-1
Section 1.02: Purpose.....	1-1
Section 1.03: Authority.....	1-1
Section 1.04: Applicability.....	1-1
Section 1.05: Compliance Required.....	1-2
Section 1.06: Interpretation and Conflicts.....	1-2
Section 1.07: Severability.....	1-2
Section 1.08: Transitional Rules.....	1-2
Section 1.09: Relationship to Other Laws and Agreements.....	1-3
Section 1.10: Use of Graphics, Illustrations, Figures, and Cross-References.....	1-4
<b>Chapter 2: Administrative Roles and Authority.....</b>	<b>2-1</b>
Section 2.01: Purpose.....	2-1
Section 2.02: Summary of Review Bodies.....	2-1
Section 2.03: Village Council.....	2-1
Section 2.04: Zoning Board of Appeals.....	2-2
Section 2.05: Zoning Officer.....	2-3
<b>Chapter 3: Development Review Procedures.....</b>	<b>3-1</b>
Section 3.01: Purpose.....	3-1
Section 3.02: Agricultural Exemption.....	3-1
Section 3.03: Common Review Requirements.....	3-1
Section 3.04: Zoning Permits.....	3-5
Section 3.05: Appeals, Variances and Special Exceptions.....	3-7
Section 3.06: Zoning Text and Map Amendments.....	3-10
<b>Chapter 4: Zoning Districts and Use Regulations.....</b>	<b>4-1</b>
Section 4.01: Purpose.....	4-1
Section 4.02: Establishment of Zoning Districts.....	4-1
Section 4.03: Official Zoning Map.....	4-1
Section 4.04: District Boundaries.....	4-1
Section 4.05: Zoning of Rights-of-way and Waterways.....	4-2
Section 4.06: Vacation of Streets and Public Ways.....	4-2
Section 4.07: Compliance with District Standards.....	4-2
Section 4.08: Flood Hazards.....	4-2
Section 4.09: Zoning District Purpose Statements.....	4-2
Section 4.10: Permitted Uses.....	4-3
Section 4.11: Similar Use Determination.....	4-6
Section 4.12: Use Specific Regulations.....	4-6
Section 4.13: Accessory Uses.....	4-13
Section 4.14: Temporary Uses.....	4-22
<b>Chapter 5: Site Development Standards.....</b>	<b>5-1</b>
Section 5.01: Measurements, Computations and Exceptions.....	5-1

Section 5.02: General Site Development Standards .....	5-6
Section 5.03: Residential Site Development Standards.....	5-7
Section 5.04: Nonresidential Site Development Standards .....	5-8
Section 5.05: Traffic Safety Visibility Triangle .....	5-8
Section 5.06: Landscape Buffer Requirements .....	5-9
Section 5.07: Screening Requirements .....	5-11
Section 5.08: Performance Standards .....	5-13
Section 5.09: Outdoor Lighting.....	5-15
<b>Chapter 6: Off-Street Parking and Loading .....</b>	<b>6-1</b>
Section 6.01: Purpose.....	6-1
Section 6.02: Applicability.....	6-1
Section 6.03: General Standards.....	6-1
Section 6.04: Rules for Computation.....	6-3
Section 6.05: Off-Street Parking Requirements .....	6-4
Section 6.06: Alternate Parking Options.....	6-6
Section 6.07: Design Standards for Parking .....	6-8
Section 6.08: Off-Street Loading Requirements.....	6-11
Section 6.09: Parking and Storage of Recreational Vehicles and Other Equipment .....	6-12
Section 6.10: Parking and Storage of Tractor Trailers.....	6-12
<b>Chapter 7: Signs.....</b>	<b>7-1</b>
Section 7.01: Purpose.....	7-1
Section 7.02: Applicability.....	7-1
Section 7.03: Rules of Measurement and Computation.....	7-2
Section 7.04: Signs Exempt from this Chapter .....	7-3
Section 7.05: Prohibited Signs.....	7-5
Section 7.06: Permitted Signs.....	7-6
Section 7.07: Temporary Signs .....	7-9
Section 7.08: Enforcement and Maintenance .....	7-11
Section 7.09: Nonconforming Sign Regulations.....	7-12
Section 7.10: Illegal Signs.....	7-12
<b>Chapter 8: Nonconformities .....</b>	<b>8-1</b>
Section 8.01: Purpose.....	8-1
Section 8.02: General Provisions .....	8-1
Section 8.03: Nonconformities and Variances.....	8-1
Section 8.04: Nonconforming Uses.....	8-1
Section 8.05: Nonconforming Lots of Record .....	8-3
Section 8.06: Nonconforming Structures or Sites .....	8-3
Section 8.07: Burden of Proof .....	8-3
<b>Chapter 9: Penalties and Enforcement .....</b>	<b>9-1</b>
Section 9.01: Enforcing Officer.....	9-1
Section 9.02: Remedies .....	9-1
Section 9.03: Notice of Violation .....	9-1
Section 9.04: Penalties .....	9-1
Section 9.05: Affected Dates .....	9-2
Section 9.06: Other Actions .....	9-2

---

<b>Chapter 10: Definitions.....</b>	<b>10-1</b>
Section 10.01: Rules of Construction and Interpretation .....	10-1
Section 10.02: Definitions.....	10-2

# Chapter 1: General Provisions

## Section 1.01: Title

---

This ordinance shall be known and may be cited and referred to as the "Village of Piketon Zoning Ordinance".

## Section 1.02: Purpose

---

This ordinance is adopted to secure and provide for the Village of Piketon the following objectives:

- A. To promote the public health, safety, comfort, and welfare of the residents of the village;
- B. To establish and maintain zoning districts in order to protect the property rights of all individuals by assuring the compatibility and efficient relationships of uses and practices within districts;
- C. To facilitate the provision of public utilities and public services;
- D. To provide the proper arrangement of streets or highways in relation to existing or proposed streets and highways;
- E. To promote orderly, efficient, and appropriate development of land;
- F. To provide uniform procedures and standards for observance by both the approving authority and the development of land;
- G. To provide standards and guidelines for compatibility of designs, materials, layout, landscaping, and effective use of land for quality commercial development;
- H. To provide reasonable and appropriate visual identification of commercial establishments;
- I. To allow freedom of speech and expression in accordance with the laws of the state and nation;
- J. To ensure adequate provision of open space for light, air, and fire safety;
- K. To manage traffic via access points and other planning tools;
- L. To preserve and protect existing trees and vegetation, flood plains, stream corridors, and other areas of scenic and environmental significance from adverse impacts of land development;
- M. To require the adequate and safe provision of transportation, water, sewage, and drainage in the village; and
- N. To preserve the character and quality of residential neighborhoods.

## Section 1.03: Authority

---

The authority for the preparation, adoption, and implementation of this ordinance is derived from Ohio Revised Code (ORC) Chapters 713, which permits the adoption of uniform rules and regulations governing the zoning of land.

## Section 1.04: Applicability

---

This ordinance is applicable to all land located within the village, as now or hereafter established.

---

## Section 1.05: Compliance Required

---

- A. Except as hereinafter specified, no land, building, structure, or premises shall hereafter be used, and no building or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged or altered except in compliance with the regulations herein specified for the applicable zoning district.
- B. Unless specifically exempted, it shall be unlawful for a property owner to use or to permit the use of any structure, building, or land, or part thereof, hereafter erected, created, changed, converted or enlarged, wholly or partly, until a zoning permit is issued by the zoning officer in accordance with Section 3.04: Zoning Permits.
- C. Uses, lots, buildings, and structures that do not comply with this zoning ordinance will be subject to the provisions of Chapter 8: Nonconformities.

---

## Section 1.06: Interpretation and Conflicts

---

- A. For purposes of interpretation and application, the provisions of this zoning ordinance shall be held to be the minimum requirements required to promote the purpose of this zoning ordinance.
- B. When provisions of this zoning ordinance are inconsistent with one another or with the provisions found in another adopted zoning ordinance, the more restrictive provisions shall govern.
- C. Where this zoning ordinance imposes a greater restriction than imposed or required by other provisions of law or by other rules, regulations, or ordinances, the provisions of this zoning ordinance shall control.

---

## Section 1.07: Severability

---

- A. If any court of competent jurisdiction invalidates any provision of this zoning ordinance, then such judgment shall not affect the validity and continued enforcement of any other provision of this zoning ordinance.
- B. If any court of competent jurisdiction invalidates the application of any provision of this zoning ordinance to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other property, 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 zoning 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.

---

## Section 1.08: Transitional Rules

---

- A. **EFFECTIVE DATE**
  - 1. This zoning ordinance was adopted by village council and shall become effective 30 days after adoption.
  - 2. Any amendments to this zoning ordinance shall be in full force and effect as provided in Section 519.12 of the Ohio Revised Code.

**B. VIOLATIONS CONTINUE**

Any violation that existed at the time this revision became effective shall continue to be a violation under this zoning ordinance and is subject to penalties and enforcement under Chapter 9: Penalties and Enforcement, unless the use, development, construction, or other activity complies with the provisions of this zoning ordinance.

**C. NONCONFORMITIES CONTINUE**

1. Any legal nonconformity that existed at the time this revision became effective shall continue to be a legal nonconformity under this zoning ordinance, as long as the situation that resulted in the nonconforming status under the previous zoning ordinance continues to exist.
2. If a legal nonconformity that existed at the time this revision became effective becomes conforming because of the adoption of this zoning ordinance, then the situation will be considered conforming and shall no longer be subject to the regulations pertaining to nonconformities.

**D. APPROVED PROJECTS**

1. Any building, structure, or development for which a zoning permit was issued prior to the effective date of this zoning ordinance may, at the applicant's option, be completed in conformance with the issued permit and any other applicable permits and conditions, even if such building, structure, or development does not fully comply with provisions of this zoning ordinance. If such building, structure, or development does not comply fully with this zoning ordinance at the time of completion, it shall be considered a legal nonconformity upon the issuance of a certificate of occupancy from the zoning department or final zoning permit from the Village of Piketon.
2. If the building, structure, or development is not completed within the time allowed under the original zoning permit or any extension granted thereof, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this zoning ordinance.
3. Any application for a project where the zoning permit has expired shall meet the standards in effect at the time the application is resubmitted.
4. Any lawful, permitted existing special exception use that existed prior to the adoption of this ordinance shall continue to be considered a legal special exception use without requiring further action by the village council, zoning officer or Zoning Board of Appeals.

**E. VESTED RIGHTS**

The transitional rule provisions of this section are subject to Ohio's vested rights laws.

---

## **Section 1.09: 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 zoning ordinance is not intended to interfere with or abrogate any third party private agreements including, but not limited to, easements, covenants, or other legal agreements between third parties. However, wherever this zoning ordinance proposes a greater restriction upon the use of buildings or land, upon the location or height of buildings or structures, or upon requirements for open areas than those imposed or required by such third party private agreements, the provisions of this zoning ordinance shall govern. In no case shall the village be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

---

**Section 1.10: Use of Graphics, Illustrations, Figures, and Cross-References**

---

- A. Graphics, illustrations, and figures are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.
- B. In some instances, cross-references between chapters, sections, and subsections are provided that include the chapter, section, or subsection number along with the name of the reference in parenthesis. Where a conflict may occur between the given cross-reference number and name, the name shall control.



# Chapter 2: Administrative Roles and Authority

## Section 2.01: Purpose

The purpose of this chapter is to identify the roles and responsibilities of various elected and appointed boards, and the duties of village staff, in the administration of this zoning ordinance.

## Section 2.02: Summary of Review Bodies

- A. Table 2-1: Summary Table of Review Bodies summarizes the review and decision-making responsibilities of the entities that have roles in the procedures set forth in Chapter 3: 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 zoning officer, the Zoning Board of Appeals, or the Village Council, to review some applications, including, but not limited to, map amendments (rezonings), text amendments, appeals, variances, special exception uses, and planned developments.

**TABLE 2-1: SUMMARY TABLE OF REVIEW BODIES**

<b>H = HEARING (PUBLIC HEARING REQUIRED)</b> <b>M = MEETING (PUBLIC MEETING REQUIRED)</b> <b>R = REVIEW AND/OR RECOMMENDATION</b>		<b>D = DECISION (RESPONSIBLE FOR FINAL DECISION)</b> <b>A = APPEAL (AUTHORITY TO HEAR/DECIDE APPEALS)</b>		
PROCEDURE	SECTION	VILLAGE COUNCIL	ZONING BOARD OF APPEALS (ZBA)	ZONING OFFICER
Zoning Ordinance Text or Map Amendment	Section 3.06:	H-D		
Special Exception Uses	Section 3.05:	A	H-D	R
Appeals	Section 3.05:	A	H-D	[1]
Variance	Section 3.05:	A	H-D	R
Zoning Permit	Section 3.04:		A	R-D

NOTES:  
 [1] Staff shall forward all records of their decisions to the ZBA including any staff report or summary that provides a history of actions and decisions made in relation to the appealed action.

## Section 2.03: Village Council

In addition to any other authority granted by ordinance or state law to the Piketon Mayor or Village Council, hereafter referred to as the mayor and village council respectively, the mayor and village council shall have the following duties for the purpose of this zoning ordinance:

- A. Mayor shall appoint, and council shall approve, a zoning officer to administer and enforce the provisions of this zoning ordinance;
- B. Mayor shall appoint a five member Zoning Board of Appeals in accordance with the Ohio Revised Code Chapter 713;
- C. Council shall determine fees for permits, and mayor (or designee) shall determine fees for application review and violations;

- D. Council or mayor shall initiate proposed amendments to this zoning ordinance text and/or the official zoning map;
- E. Council shall review and decide on all proposed zoning text and map amendments to this zoning ordinance;
- F. Council shall review and decide appeals of decisions by the ZBA; and
- G. Mayor shall provide for maintaining and keeping current the permanent records required by this zoning ordinance, including but not limited to the zoning district map, zoning certificates, inspections, and all official zoning actions of the village council.

## **Section 2.04: Zoning Board of Appeals**

---

### **A. REFERENCE**

The Piketon Zoning Board of Appeals, established by council and appointed by the mayor, shall be known and hereafter referenced in this zoning ordinance as the ZBA.

### **B. APPOINTMENT AND ORGANIZATION**

1. The mayor shall appoint members of the ZBA. The ZBA shall be composed of five members who reside in the village.
2. Members shall serve five-year terms with the term of one member expiring each year.
3. Each member shall serve until their successor is appointed and qualified.
4. Members of the ZBA shall be removable for non-performance of duty, misconduct in office, or other cause, by the village council, upon written charges filed with the village council, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least 10 days prior to the hearing, by personal service, or by leaving the same at the member's usual place of residence. The member shall be given the opportunity to be heard and answer such charges.
5. Vacancies shall be filled by appointment by the mayor and shall be for the time remaining in the unexpired term.

### **C. ROLES AND POWERS**

The ZBA shall have the following roles and powers:

1. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant, or refusal made by the zoning officer, other village official, or administrative body of the village in the interpretation or enforcement of the provisions of this zoning ordinance.
2. To hear and decide, in accordance with the provisions of this zoning ordinance, applications filed for special exception uses, for interpretation of the zoning map, or for decisions upon other special questions on which the ZBA is authorized by this zoning ordinance to pass.
3. The ZBA shall have the power to authorize upon appeal in specific cases, filed as herein provided, such variances from the provisions or requirements of this zoning ordinance as will not be contrary to the public interest, but only in such cases where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of this zoning ordinance would cause practical difficulty for area/dimensional variances, and so that the spirit of the zoning ordinance shall be observed and substantial justice done.
4. To permit the substitution, enlargement or extension of nonconformities existing at the time of enactment of this zoning ordinance in compliance with Chapter 8: Nonconformities.

**D. BYLAWS**

The ZBA may organize and adopt bylaws for its own governance provided they are consistent with law or with any other ordinance of the village.

**E. MEETINGS**

1. Meetings of the ZBA shall be held at the call of the chair, or the acting chair, and at such other times as the ZBA may determine.
2. The chair, or in their absence, the acting chair, may administer oaths and the ZBA may compel the attendance of witnesses.
3. All meetings of the ZBA shall be open to the public, except as exempted by law.
4. The clerk/treasurer shall keep minutes of ZBA proceedings showing the vote, indicating such fact and shall keep records of ZBA examinations and official actions, all of which shall be filed in the office of the village clerk and shall be a public record, unless exempted by law.
5. The ZBA may call upon any village department for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the ZBA as may reasonably be required.

**F. QUORUM AND DECISIONS**

1. Any combination of three members of the ZBA shall constitute a quorum.
2. The ZBA shall act by resolution when at least three members concur. Every decision shall be accompanied by written findings of fact, based on testimony and evidence and specifying the reason for granting or denying the application.
3. Non-decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.

**Section 2.05: Zoning Officer**

**A. ROLES AND POWERS**

1. The mayor shall appoint a zoning officer to be confirmed by village council who shall have the following roles and powers:
  - a. To enforce this zoning ordinance. All officials and employees of the village shall assist the zoning officer by reporting to him/her upon becoming aware of new construction, reconstruction, land uses, or upon seeing violations.
  - b. To review applications for zoning permits and to ensure compliance with this zoning ordinance in accordance with Section 3.04: Zoning Permits.
  - c. To issue a zoning permit, after written request from the owner or tenant, for any building or premises existing at the time of enactment of this zoning ordinance, certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this zoning ordinance.
  - d. To keep adequate records of all applications and decisions on said applications.
  - e. To issue citations for any zoning violations and keep adequate records of all violations.
  - f. To conduct inspections of buildings and uses of land to determine compliance or non-compliance with this zoning ordinance.
  - g. To revoke a zoning permit or approval issued contrary to this zoning ordinance or based on a false statement or misrepresentation on the application.

**h.** The zoning officer is responsible to see that the village is complying with the Fair Housing Standards.

**2.** The village council may also appoint additional zoning officer personnel to assist the zoning officer in such roles and powers.

**B. DECISIONS**

**1.** A decision of the zoning officer may be appealed to the ZBA.

**2.** A decision of the ZBA may be appealed to village council.

**3.** The zoning officer shall have appropriate forms for appeal available at the time of denial.

# Chapter 3: Development Review Procedures

## Section 3.01: Purpose

---

The purpose of this chapter is to identify the development review procedures used in the administration of this zoning ordinance.

## Section 3.02: 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.

## Section 3.03: Common Review Requirements

---

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

### A. AUTHORITY TO FILE APPLICATIONS

- 1. The person having legal authority to take action in accordance with the approval sought shall file an application for any review in accordance with this zoning ordinance. The person having legal authority shall be the record owner or the duly authorized agent of the record owner and may be required to provide proof of such authority at the time of application.
- 2. The village council may initiate zoning text and map amendments under this zoning ordinance with or without an application from the property owner who may be affected.

### B. APPLICATION CONTENTS

#### 1. Submittal Requirements

Applications required under this zoning ordinance shall be submitted in a form and in such numbers as established by the zoning officer and made available to the public.

#### 2. Submission of Fees

- a. Applications shall be accompanied by a fee as established by ordinance of village council and made available to the public.
- b. The village shall charge appropriate fees for the review or issuance of zoning permits, special exceptions, appeals, variances, zoning amendments, and other applicable permits and procedures to cover the costs of inspection, investigation, legal notices, and other expenses incidental to the enforcement of this zoning ordinance. Such fees shall be paid to the Village of Piketon, or its designee, and shall be paid in accordance to the Official Zoning Fee Schedule as established by village council.

**3. Complete Application Determination**

- a. The zoning officer shall only initiate the review and processing of applications submitted under this chapter if such application is determined to be complete.
- b. The zoning officer shall make a determination of application completeness within 10 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 zoning ordinance.
- d. If an application is determined to be incomplete, the zoning officer 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 of the notice provided by the zoning officer pursuant to Section 3.03:B.3.d, unless an extension is granted by the zoning officer, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. No reconsideration of an incomplete application shall occur after expiration of the 60 day period, and an applicant in need of further development approval under the zoning ordinance shall, pursuant to all of the original requirements of Section 3.03:B. Application Contents, submit a new application and filing fee.
- f. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

**4. Refund of Fees**

Application or review fees are not refundable except where the zoning officer 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.

**C. SIMULTANEOUS PROCESSING OF APPLICATIONS**

Whenever two or more forms of review and approval are required under this zoning ordinance, the zoning officer shall determine the order and timing of review. The zoning officer may authorize a simultaneous review of applications.

**D. 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.

**E. 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 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. Indicate the date, time, and place of the public hearing.
- c. Describe the land involved by street address, or by legal description and the nearest cross street, and project area (size).

- d. Describe the nature, scope, and purpose of the application or proposal.
- e. Identify the location (e.g., the village offices) where the public may view the application and related documents.
- f. 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. 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 3-1: Notice Requirements.

**TABLE 3-1: NOTICE REQUIREMENTS**

DEVELOPMENT REVIEW PROCEDURE	AGENCY RESPONSIBLE FOR NOTIFICATION	PUBLISHED NOTICE	MAILED NOTICE
Zoning Ordinance Text or Map Amendment	Clerk of Council	Published notice required a minimum of 30 days before Village Council hearing	Written notice shall be required a minimum of 20 days before the Village Council hearing only if a zoning map amendment will affect 10 or fewer properties. Written notice shall be provided to the applicant and all property owners within, contiguous, and directly across the street of the subject property
Special Exception Uses	Zoning Officer, Clerk/Treasurer	Published notice required a minimum of 15 days before the ZBA hearing, but not more than 30 days prior to the hearing	Written notice to the applicant and all property owners within, contiguous, and directly across the street of the subject property shall be required a minimum of 15 days prior to the hearing, but not more than 30 days notice.
Appeals	Zoning Officer, Clerk/Treasurer		
Variance	Zoning Officer, Clerk/Treasurer		

**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 Section 3.03:E.1 Content and state law.

**4. Written Notice**

- a. It shall be the duty of the applicant to furnish the village with the names and addresses of the owners of all properties contiguous and directly across the street of the subject property.
- b. The village shall notify property owners contiguous and directly across the street of the subject property by regular mail, of information required in Section 3.03:E.1 Content and state law.
- c. Written notice to property owners contiguous and directly across the street of the subject property owner shall be postmarked no later than the minimum number of days required in Section 3.03:E.2 Notice Requirements.
- d. If more than 100 properties are located contiguous and directly across the street of the subject property, written notice shall not be required and only published notice shall be required.

**F. CONSTRUCTIVE NOTICE**

The following shall apply to all public notice requirements established in each development review procedure:

1. 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 zoning ordinance, and such finding shall be made available to the decision-making body prior to final action on the request.
2. When the records of the village document the publication, mailing, and/or 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.

## **G. CONDUCT OF PUBLIC HEARING**

### **1. Rights of All Persons**

Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

### **2. Continuance of a Public Hearing or Deferral of Application Review**

- a. An applicant may request that a review or decision-making body's consideration of an application at a public hearing be deferred by submitting a written request for deferral to the zoning officer prior to the publication of notice as may be required by this zoning ordinance. The zoning officer may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.
- b. A request for deferral of consideration of an application received by the zoning officer after publication of notice of the public hearing as required by this zoning ordinance shall be considered as a request for a continuance of the public hearing, and may only be granted by the review or decision-making body.
- c. The review body conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place.

### **3. Withdrawal of Application**

Any request for withdrawal of an application shall be submitted in writing by the applicant prior to action by the review or decision-making body to any two of the following: the zoning officer, mayor, or village administrator.

- a. The zoning officer shall approve a request for withdrawal of an application if it has been submitted prior to publication of notice for the public hearing on the application in accordance with this zoning ordinance.
- b. If the request for withdrawal of an application is submitted after publication of notice for the public hearing in accordance with this zoning ordinance, the request for withdrawal shall be placed on the public hearing agenda and acted upon by the review or decision-making body.
- c. In all cases where the applicant has requested the withdrawal of an application, the application fee paid shall not be refunded.



**H. EXAMINATION AND COPYING OF APPLICATION AND OTHER DOCUMENT**

Documents and/or records may be inspected and/or copied as provided for by state law.

**I. COMPUTATION OF TIME**

1. In computing any period of time prescribed or allowed by this zoning ordinance, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as observed by the village where the village administrative offices are closed for the entire day.
2. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).
3. When the village offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday observed by the village in which the village administrative offices are closed for the entire day.

**Section 3.04: Zoning Permits**

**A. ZONING PERMIT APPLICABILITY**

A zoning permit shall be required for any of the following unless otherwise specifically exempted:

1. New construction or structural alteration of any building or structure, including accessory buildings and structures.
2. Change in use of an existing building (including tenant finishes), structure, accessory building, lot, or portion thereof, including nonconforming uses but excluding changing to any agricultural use.
3. Change in the use of land to a use of a different classification.
4. Occupancy and use of vacant land or buildings, excluding agricultural land or buildings.
5. Home occupations, accessory uses, and temporary uses.
6. Permanent or temporary signs unless exempted in Section 7.04: Signs Exempt from this Chapter.

**B. ZONING PERMIT REVIEW PROCEDURE**

**1. Preapplication Meeting**

- a. Applicants for multi-family residential and nonresidential developments are encouraged to meet with the zoning officer for a preapplication meeting prior to submitting a formal application for a zoning permit.
- b. The purpose of the preapplication meeting is to informally discuss application requirements, review procedures, and details of the proposed development.
- c. Applicants are encouraged to bring a preliminary site plan to the preapplication meeting.
- d. No formal application is required to facilitate a preapplication meeting. The applicant need only contact the zoning officer to set up a meeting date.
- e. Discussions that occur during a preapplication meeting with village staff 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.

**2. Application**

The applicant shall submit the required number of copies of the following to the zoning officer prior to submitting for a building permit from the building department:

- a. Zoning permit application and applicable forms available from the village offices.
- b. All applications for a zoning permit shall be accompanied by a plot plan, drawn to scale, showing the actual dimensions of the zoning lot or lots to be built upon, the size of the building or structure to be erected or structurally altered, its location on the lot or lots, intended location of utilities hookup, location of driveway, and such other information as may be necessary to provide for the enforcement of these regulations. The Village will inform the applicant if a culvert is needed, and if so, the size of such culvert. The zoning officer must consider the effect of the request on adjoining property owners.
- c. All such forms, plans, maps, and information as may be prescribed for that purpose by the zoning officer to assure the fullest practicable presentation of the facts for the permanent record.
- d. All required fees as established in the official village fee schedule.

**3. Review**

The zoning officer shall review the application for conformance with the provisions of this zoning ordinance.

**4. Decision**

- a. The zoning officer shall review each complete application and either approve and issue the zoning permit or deny the application within 30 days of the application.
- b. Upon approval, the zoning officer shall issue a signed zoning permit and maintain a copy of the application for village records.
- c. If the zoning officer denies an application, the officer shall state in writing the reasons for the action taken.
- d. If the application is denied, the applicant may submit a revised application and site plan for review in accordance with this review procedure, or the applicant may appeal the decision to the ZBA in accordance with Section 3.05: Appeals, Variances and Special Exceptions of this zoning ordinance.

**C. REVIEW CRITERIA**

1. All applications for a zoning permit shall demonstrate conformity with the provisions of this zoning ordinance.
2. No zoning permit shall be issued to any applicant or for any property that is in violation of any provision of this zoning ordinance until such violation is corrected or eliminated to the satisfaction of the zoning officer unless said application is being made to bring the property into conformance with this zoning ordinance.

**D. AMENDMENTS OR MODIFICATIONS**

1. Incidental changes from an approved zoning permit are permissible and the zoning officer may grant changes, provided such change has no discernible impact on neighboring properties or the general public. Amendments or modifications to an approved zoning permit may require the payment of a fee as established in the official village fee schedule.
2. All other requests for changes will be processed as a new application, which require the resubmittal of a new fee.

3. An applicant or property owner requesting changes shall submit a written request to the zoning officer, itemizing the proposed changes, unless waived by the zoning officer.

**E. EXPIRATION**

1. Construction shall commence within 12 months and shall be substantially completed within 36 months of the date upon which the zoning permit was issued unless the owner of the property has established a vested right under the laws of Ohio to the use for which the original zoning permit was issued.
2. Construction shall not be required to comply with the time limits established in Section 3.04:E.1. above if the zoning officer has authorized an alternative commencement or substantial completion date as part of the zoning permit application review process. If the zoning officer has authorized an alternative commencement or substantial completion date as part of the zoning permit application review process, construction shall commence and be substantially completed within those time limits established by the zoning officer.
3. For the purposes of Section 3.04:E.2. above, construction shall not be deemed to have commenced until the excavation necessary for placement of the structure's foundation is no less than 100% complete, as determined by the zoning officer.
4. Failure to commence construction within 12 months and substantially complete construction within 36 months or any alternative time limits approved by the zoning officer shall result in the expiration of the zoning permit unless the applicant requests and receives an extension from the zoning officer. Applications shall be required to apply for an extension no later than 30 days prior to the date of expiration of the original zoning permit, unless waived by the zoning officer. Factors to be considered by the zoning officer when determining whether to grant an extension shall include:
  - a. The length of additional time necessary to complete construction;
  - b. Additional time is needed for review by other agencies having jurisdiction on the project;
  - c. The reason for the delay;
  - d. Good faith on the part of the applicant;
  - e. The existence of or potential for any substantial detriment to adjoining property as a result of the extension; and
  - f. Conformance with this zoning ordinance.
5. Upon expiration of a zoning permit, a new zoning permit application, including all applicable fees, shall be required before construction or resumption of construction can begin.
6. Actions taken by the zoning officer on requests for extensions may be appealed to the ZBA.

**F. TEMPORARY ZONING PERMITS**

The zoning officer may issue a temporary zoning permit in accordance with the temporary use provisions of this zoning ordinance and the zoning permit review procedure established above.

**G. REVOCATION OF A ZONING PERMIT**

The zoning officer shall hereby have the authority to revoke an approved zoning permit if the information submitted as part of the application is found to be erroneous or fraudulent after the permit has been issued. Any revocation of an approved zoning permit by the zoning officer may be appealed to the ZBA.

---

## **Section 3.05: Appeals, Variances and Special Exceptions**

---

**A. REVIEW PROCEDURE**

The review procedure for appeals, variances, and special exceptions shall be as follows:

**1. Step 1 – Application**

An application for variances, special exceptions, or other review over which the ZBA has original jurisdiction under Section 2.04: Zoning Board of Appeals may be made by any property owner, including an authorized agent, or by a governmental officer, department, or board.

**a. Special Application Requirements for Appeals**

- i. An appeal to the ZBA may be taken by any person aggrieved by a decision of the zoning officer or by any administrative officer of the village in interpreting or applying the provisions of this zoning ordinance. Such appeal shall be taken within 30 days of receipt of notification of the decision in question, by filing with the zoning officer and with the ZBA, a notice of appeal specifying the grounds thereof including applicable sections of the zoning ordinance.
  - ii. The zoning officer shall transmit to the ZBA all the papers constituting the record upon which the action appealed from was taken.
  - iii. The filing of an appeal shall stay all proceedings unless the zoning officer or any affected person certifies to the ZBA that, by reason of facts pertaining to the matter in question, a stay, in their opinion, would cause imminent peril to life or property. When such certification is made, proceedings shall not be stayed except by order granted by the ZBA.
- b. The zoning officer shall transmit a copy of the application to the ZBA.
- c. All applications shall be submitted with the required fees as established in the village fee schedule.

**2. Step 2 – Public Hearing with the Zoning Board of Appeals**

- a. Upon application (Step 1), the clerk of council shall fix a reasonable time for the public hearing on any application or appeal, give at least 15 days, but not more than 30 days, of notice in writing to the parties in interest, and give notice of such public hearing by one publication in one or more newspapers of general circulation in the county at least 15 days before the date of such hearing.
- b. Written notice shall be given by the zoning officer and the clerk of council to property owners adjacent and directly across the street of the subject property.
- c. Any party may appear in person or by an appointed representative at a hearing for an appeal or application.
- d. Upon the day for hearing any application or appeal, the ZBA may adjourn the hearing in order to obtain additional information or to cause further notice, as it deems proper, to facilitate the discussion and decision on said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the ZBA so decides.

**3. Step 3 – Decision**

- a. Within 30 days after the hearing concludes (Step 2), the ZBA shall make a decision on the application or appeal.
- b. A certified copy of the ZBA's decision shall be transmitted to the applicant or appellant at the applicant's address as shown on the records of the ZBA and to the zoning officer. Such decision shall be binding upon the zoning officer and observed by her/him and she/he shall incorporate the terms and conditions of the decision in the permit to the applicant or appellant, whenever the ZBA authorizes a zoning permit.

- c. For appeals, the ZBA may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the zoning officer from whom the appeal is taken.
- d. In authorizing a variance or special exception, the ZBA may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as the ZBA may deem necessary in the interest of the furtherance of the purposes of this zoning ordinance. In authorizing a variance or special exception with attached conditions, the ZBA may require such evidence and guarantee or bond as it may deem to be necessary, that the applicant is and will comply with the attached conditions.
- e. Failure to comply with the conditions of a decision shall be deemed a violation of this zoning ordinance.
- f. Any party adversely affected by a decision of the ZBA may appeal the decision to the full village council and then to Pike County Court of Common Pleas if need be.

**B. APPEAL REVIEW CRITERIA**

An order, decision, determination, or interpretation shall not be reversed or modified by the ZBA 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 zoning ordinance, state law, or federal law.

**C. VARIANCE REVIEW CRITERIA**

1. The ZBA shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions or requirements of this zoning ordinance as will not be contrary to the public interest. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this zoning ordinance will result in practical difficulty for an area/dimensional variance.

**2. Area/Dimensional Variance**

- a. The following factors shall be considered and weighed by the ZBA to determine practical difficulty:
  - i. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;
  - ii. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
  - iii. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
  - iv. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
  - v. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
  - vi. Whether special conditions or circumstances exist as a result of actions of the owner;
  - vii. Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

- viii. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and
  - ix. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- b. No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

**D. SPECIAL EXCEPTION REVIEW CRITERIA**

1. In reviewing special exceptions, the ZBA shall consider the following:
  - a. The use is a special exception, permitted with approval by the ZBA, in the district where the subject lot is located;
  - b. The use is in accordance with the objectives of adopted comprehensive plan for the village and zoning ordinance; and
  - c. The special exception will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare.
2. In order to approve a special exception, the ZBA shall use the following review criteria:
  - a. The use is in fact a special exception as established within the applicable zoning district;
  - b. The use will be harmonious with, and in accordance with, the purpose of this zoning ordinance and consistent with the policies of adopted comprehensive plan for the village;
  - c. The use will conform to the general character of the neighborhood in which it will be located;
  - d. The use 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;
  - e. The use will not create excessive additional requirements, at public cost, for public facilities and services and will not be detrimental to the economic welfare of the community;
  - f. 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
  - g. 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. EXPIRATION**

1. For special exceptions, the applicant shall have one year from the date of approval to receive an approved zoning permit or the special exception shall be deemed null and void.
2. For variances, the applicant shall have one year from the date of approval to receive an approved zoning permit or the variance approval shall be deemed null and void.
3. Applicants may submit one request for an extension of six months to the zoning officer.

**Section 3.06: Zoning Text and Map Amendments**

**A. AMENDMENT INITIATION**

1. Amendments or supplements to the zoning ordinance may be initiated by:
  - a. Passage of a ordinance by village council; or
  - b. By the filing of an application by one or more of the owners (or their agents) of property within the area proposed to be changed or affected by the proposed amendment.