

VILLAGE OF MOGADORE
CONDITIONAL ZONING CERTIFICATE

135 S. Cleveland Ave., Mogadore, OH 44260
Phone: 330-628-4896 Fax 330-628-5850



DATE: _____

APPLICANT NAME: _____ PHONE: _____ EMAIL: _____

APPLICANT ADDRESS: _____

OWNER NAME: _____ PHONE: _____ EMAIL: _____

OWNER ADDRESS: _____

LOCATION: _____

ZONING DISTRICT: _____ CONDITIONALLY PERMISSIBLE USE: _____

VILLAGE COMMENTS: _____

APPROVED / DISAPPROVED: _____ DATE: _____

FEE: _____ DEPOSIT: _____ PAID: _____

PLANNING COMMISSION CHAIRMAN: _____

NOTE: VILLAGE INSPECTION FEES AND RESTORATION DEPOSIT MAY BE REQUIRED. INSPECTION FEES AND RESTORATION DEPOSIT ARE BASED ON THE TYPE AND DURATION OF THE WORK BEING PERFORMED.

Application is made for a conditional zoning certificate within a Village limits as indicated and in accordance with the following conditions:

1. Applicant provides plans boundaries and divisions of property, abutting streets, properties and structures, location of all improvements proposed, including structures, parking, landscaping, etc., location of wells, sewers or other utility features, existing and proposed.
2. Applicant provides complete plans and specifications for all proposed development and construction.
3. Provide a statement supporting evidence that the proposed use will be harmonious with, and in accordance with the objectives of the zoning resolution and the land use, and will not be detrimental to existing or future uses in the immediate vicinity of the community as a whole.

APPLICANT SIGNATURE: _____

OWNER SIGNATURE: _____

CONDITIONAL ZONING CERTIFICATES

§ 152.110 PURPOSE.

- (A) Until recently, regulation of land uses and structures through zoning was accomplished by assigning each use to one or more "use districts." However, the functions and characteristics of an increasing number of new kinds of land uses, combined with conclusive experience regarding some of the older, familiar kinds of uses, call for a more flexible and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied and are dependent upon the functional characteristics of the use, competitive situations, and the availability of land. Certain "uses" need to be reasonably controlled by specified requirements that provide practical latitude for the investor, but at the same time maintain adequate provisions for the security of the health, safety, convenience, comfort, prosperity, or general welfare of the community's inhabitants.
- (B) In order to accomplish such a dual objective, provision is made in this chapter for a more detailed consideration of each conditionally permitted use as it relates to location; size; design; method of operation; and intensity of land use; which in turn affects the volume of traffic generated and traffic movements, the concentration of population, and the kinds of public facilities and service it requires. Land and structure uses possessing these particularly unique characteristics are designated as conditionally permitted uses and are permitted through the issuance of a conditional zoning certificate with conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. (Ord. passed 12-11-90)

§ 152.111 PROCEDURES FOR MAKING APPLICATION.

- (A) *Procedures for making application.* An application shall be submitted to the Planning and Zoning Commission and it shall contain the following data:
- (1) The form supplied by the Planning and Zoning Commission completed by the applicant.
 - (2) A site plan, plot plan or development plan of the entire property being considered, drawn to a reasonable scale and showing the location of all existing and proposed structures, the types of buildings and the uses proposed location of all abutting streets.
 - (3) The fee payment for conditional zoning certificates shall be the fee prescribed in the Permits and Approvals Fee Schedule. The Planning and Zoning Commission will refer the application to the Village Engineer and/or any other qualified consultants when it deems expert advice necessary, and the applicant shall pay for the costs of said referral.
- (B) *Review by Planning and Zoning Commission.* The Planning and Zoning Commission shall review the proposed development as presented on the submitted plans and specifications in terms of the standards established in this chapter. Such review shall be completed and made public within 60 days of the first regular monthly meeting of the Planning and Zoning Commission following the submission of such application. If the application is submitted at a regular monthly meeting of the Planning and Zoning Commission, then the 60-day period shall begin with the date of submittal.
- (C) *Notice and hearing.*
- (1) No action of the Planning and Zoning Commission shall be taken in any proceedings under division (B) above until after proper notice has been given and public hearing has been held.
 - (2) Proper notice of a joint hearing before the Planning and Zoning Commission and Council shall be public notice by publishing in a newspaper of general circulation in the community and written notice mailed to

the owner of property, or the agent of such owner within 300 feet of the perimeter of such parcel or parcels to be rezoned, at least ten days prior to the date of such proposed hearing.

(3) The Clerk-Treasurer shall supply to the Planning and Zoning Commission the names of property owners notified and copies of the notices sent pursuant thereto.

(D) *Issuance and revocation of conditional zoning certificate.* The application will be submitted to Council with the Planning and Zoning Commission recommendations and conditions. Upon approval by Council, a conditional zoning certificate will be issued by the Clerk-Treasurer. The breach of any condition, safeguard, or requirement shall automatically invalidate the certificate granted, and shall constitute a violation of this chapter.

(E) *Re-application.* An application for a conditional zoning certificate which has been denied wholly or in part by Council shall not be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof or changed conditions which would be sufficient to justify reconsideration by Council. (Ord. passed 12-11-90)

§ 152.112 STANDARDS AND REQUIREMENTS FOR CONDITIONAL USES.

(A) An applicant must establish by clear and convincing evidence that the general standards of this chapter and the specific standards pertinent to each proposed use shall be met throughout the period of the proposed use. The Council shall determine compliance or non-compliance and shall insure that the general standards and the specific standards and other terms of this chapter pertinent to the proposed use shall be satisfied by the completion and operation of the proposed development.

(B) The Planning and Zoning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find by clear and convincing evidence that such use on the proposed location:

(1) Will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan;

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;

(3) Will not be hazardous or disturbing to existing or future neighboring uses;

(4) Will not be detrimental to property in the immediate vicinity or to the community as a whole;

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protections, drainage structures, refuse disposal, or schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

(6) Will be in compliance with the subdivision regulations, the Board of Health standards, and the building code;

(7) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.

(8) All uses and associated premises, structures, activities, roads, parking areas, utilities, construction, established after the effective date of this chapter shall be in compliance with the village subdivision regulations, building code, health code, housing code, and all other applicable regulations. (Ord. passed 12-11-90) Penalty, see § 152.999

§ 152.113 SPECIFIC REGULATIONS PERTAINING TO CONDITIONALLY PERMISSIBLE USES.

- (A) All structures and activity shall be located at least 100 feet from all property lines.
- (B) Loud speakers which cause a hazard or annoyance shall not be permitted.
- (C) All points of vehicular entrance or exit shall be located no closer than 200 feet from the intersection of two major thoroughfares; or no closer than 100 feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (D) There shall be no more than one advertisement oriented to each abutting road identifying the activity.
- (E) No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- (F) Elementary school structures shall be located on a collector thoroughfare.
- (G) Such developments shall be located on major thoroughfares or at intersections of major and/or collector thoroughfares.
- (H) Such developments shall be located adjacent to non-residential uses such as churches, parks, industrial, or commercial districts.
- (I) Such uses shall not require uneconomical extension of utility services at the expense of the community.
- (J) Site locations shall be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area.
- (K) Such uses shall be properly landscaped to be harmonious with surrounding residential uses.
- (L) Such structures should be located adjacent to parks and other nonresidential uses such as schools and shopping facilities where use could be made of joint parking facilities.
- (M) All permitted installations shall be maintained in a neat orderly condition so as to prevent injury to any single property, and individual, or to the community in general; a bond may be required to insure that this provision will be met.
- (N) Lodging and boarding house uses shall be so designed, maintained, and operated as to comply with inspection and rules of the Municipal Board of Health and the regulations of all other applicable municipal codes, and to minimize possible disruptive effects on the character of adjacent and nearby properties. Parking shall be provided in accordance with § 152.046. The design and construction of parking areas, service areas, and access drives shall be approved by the Commission. The property must have approved sewer and water facilities and meet applicable fire and safety standards. Such uses shall be permitted under the following conditions:
 - (1) Provided that such facilities be located at the extremity of the business districts so as not to interfere with the pedestrian interchange between stores in the district and provided further that it would not limit expansion of the pedestrian-oriented facilities.
 - (2) No more than two driveway approaches shall be permitted directly from any thoroughfare and shall not exceed 30 feet in width at the property line.
 - (3) If the property fronts on two or more streets, the driveways shall be located as far from the street intersections as is practical.

- (4) At least six-inch high pedestrian safety curb shall be installed along all street right-of-way lines except at driveway approaches and landscaped areas.
- (O) Any temporary structures shall be indicated as such on site plans submitted to the Commission for approval. Such structures shall not be continued as permanent structures. The period of continuance shall be set by the Commission.
- (P) The area proposed for a cemetery shall be used for cemetery purposes only, and shall meet the following requirements:
 - (1) Only memorial park cemeteries having grave markers flush with the surface of the ground shall be permitted. The term "marker" to refer to the name of the deceased.
 - (2) Except for office uses incidental to cemetery operations, no business or commercial uses of any kind shall be permitted on the cemetery site.
 - (3) Minimum area required for a cemetery site shall be 40 acres.
 - (4) A building of brick and/or stone, solid and/or veneered, shall be provided if storage of maintenance equipment and/or materials is to be necessary.
 - (5) Pavement width of driveways shall be at least 20 feet (ten feet per moving land).
 - (6) Drive shall be of usable shape, improved bituminous, concrete, or equivalent surfacing and so graded and drained as to dispose of all surface water accumulation within the area.
 - (7) Pavement is to be installed as development progresses and as indicated on the final plans approved by the Commission.
 - (8) Sufficient parking spaces shall be provided as to not deter traffic flow within the cemetery.
 - (9) Area drainage and/or sanitary facilities are subject to approval by the Board of Health and the Village Engineer prior to the issuance of a conditional zoning certificate.
 - (10) Only signs designating entrances, exits, traffic direction and titles shall be permitted, and must be approved by the Commission.
 - (11) Adequate screening with shrubs, trees or compact hedges shall be provided parallel to property lines adjacent to or abutting residential dwellings; such shrubs, trees and hedges shall be maintained in good condition.
 - (12) Provisions shall be made for landscaping throughout the cemetery.
 - (13) Location of cemetery buildings and all other structures shall conform to front side and rear yard building lines of the particular district in which it is located.
 - (14) No gravesites shall be located within 100 feet of the right-of-way lines of any publicly dedicated thoroughfare.
 - (15) A gravesite shall not be within 200 feet of an existing residence.

(16) Guarantees shall be made that the cemetery will be developed as proposed on the plans approved by the Commission, the Municipal Engineer, and the Municipal Board of Health. Guarantees shall be as follows:

- a. A performance bond in the amount of \$25,000 for cemeteries of 40 acres. An additional \$5,000 shall be required for each ten acres over 40 acres or for each ten added at a later date. The amount of the bond will be reduced annually, any by an amount that will leave the balance of the bond proportional to the portion of the cemetery not developed to the specifications of the plans approved by the Commission, the Municipal Engineer, and the Municipal Board of Health.
- b. Other methods as might be worked out by the Commission, the developers, and their legal advisors.

(17) A trust fund of an amount set by the Commission shall be established by the cemetery developers for the perpetual maintenance of the cemetery grounds. The trust fund shall be established before any burial spaces are sold or used and shall be held and invested by a financial institution mutually agreed upon by the developers and the Commission. A percentage of the money from the sale of each burial space shall be put into the maintenance trust fund. The percentage shall be an amount set by the Commission. Interest yielded by the fund shall be applied towards the maintenance of the cemetery grounds.

(Q) An integrated planned commercial development which is a grouping of three or more commercial establishments which have common vehicular parking facilities, controlled access to abutting streets, and are developed under a unified site plan, shall be permitted provided the following conditions are met:

- (1) Only those types of business uses permitted for conventional development in the district shall be permitted in integrated planned business developments.
- (2) The minimum setback building lines shall be 100 feet measured from the street right-of-way line.
- (3) Side yards and rear yards shall be required only on the perimeter of the planned development and shall be 50 feet except that where the business development is adjacent to a residential zone the side and/or rear yard shall be 75 feet on the sides abutting the residential zone only.
- (4) All points of entrance and /or exit shall be located no closer than 200 feet to the intersection of two thoroughfares.
- (5) The minimum site size to be considered for an integrated planned commercial development shall be three acres.

(R) Only retail uses which are customarily accessory or incidental to the main recreational use shall be permitted; and shall include such uses as refreshment stands, souvenir stands, and concession stands.

(S) A conditional zoning certificate for a use permitted under these regulations shall be issued for a three-year period only. After a three-year period has elapsed, a new conditional zoning certificate shall be required and may be issued provided that the Commission and the Zoning Inspector determine that the use has been and is being operated according to the specifications of this chapter and the previous conditional zoning certificate. If necessary, the Commission may make additional specifications for the continued operation of the use as a prerequisite for reissuance of the conditional zoning certificate should Council be aware of changes requiring such additional specifications.

(T) Vehicular approaches to the property shall be so designed and sufficient off-street transient parking or waiting area provided as not to create an interference with traffic on the street. Activities shall be conducted within an enclosed building.

- (U) All facilities and structures shall meet all municipal, county and state health, building, electrical and other applicable codes.
- (V) All activities, programs, and other events shall be adequately and properly supervised as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.
- (W) All activities, except those required to be performed at fuel pumps, shall be carried on inside a building; if work is performed on a vehicle, the vehicle shall be entirely within a building.
- (X) Two-family dwellings shall meet the following requirements:
- (1) Height shall be no greater than that permitted for one-family dwellings,
 - (2) Front yards shall meet the minimum front requirements for one-family dwellings,
 - (3) Side yards shall be 1 ½ times the side yard requirements for one-family dwellings,
 - (4) Rear yards shall meet minimum rear yard requirements for one-family dwellings,
 - (5) Minimum lot area shall be 15,000 square feet,
 - (6) Minimum lot width shall be 120 feet,
 - (7) Minimum living area shall be 900 square feet for each dwelling unit within a two-family dwelling,
 - (8) Architectural design shall be compatible with that of surrounding one-family dwellings,
 - (9) Centralized water and sanitary sewers must be available prior to occupancy of a two-family dwelling,
 - (10) Full basements must be provided for all two-family dwellings,
 - (11) Parking for two cars must be provided for each dwelling unit within a two-family dwelling. Each space must be ten feet in width by 20 feet in length. In addition, adequate backing and turning space must be provided, and all parking spaces must be served by a single drive.
- (Y) An off-street driveway must be provided which will accommodate a minimum of 20 vehicles awaiting service by an auto laundry. (Ord. passed 12-11-90) Penalty, see § 152.999

§ 152.114 OTHER REQUIREMENTS.

The Planning and Zoning Commission may recommend that Council adopt or Council may on its own initiative demand as conditions of approval any other requirements that it deems necessary to fulfill the purposes and intent of this chapter, including guarantees that any conditions will be fulfilled, a contractual money defaults, deposits and bonds. (Ord. passed 12-11-90)