

CHAPTER 155 – ZONING CODE

Village of Albany, Ohio

Established by Ordinance 2003-11-03
on November 3, 2003

CHAPTER 155 - ALBANY ZONING CODE

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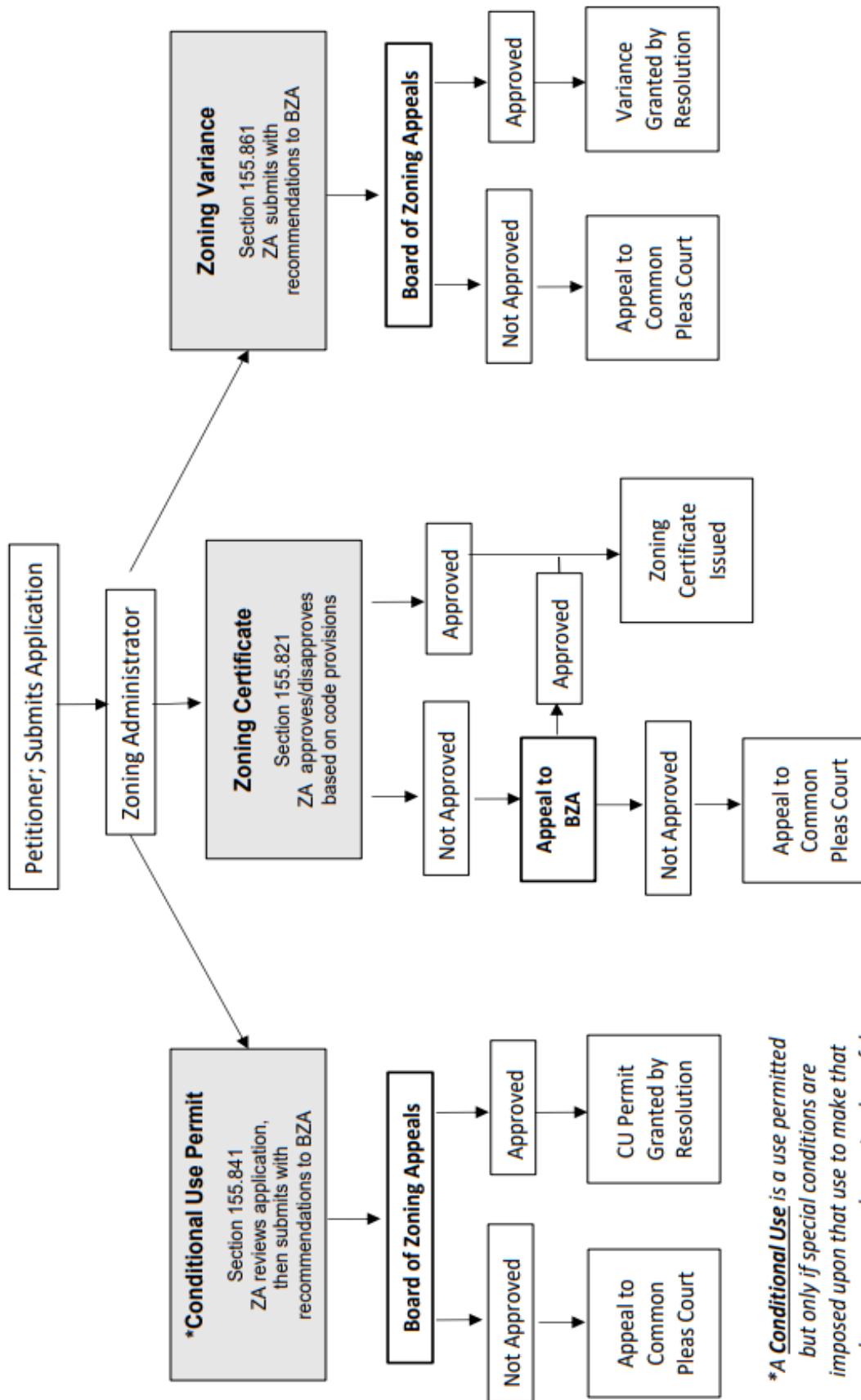
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*A Conditional Use is a use permitted but only if special conditions are imposed upon that use to make that use less severe, unpleasant or harmful to neighboring properties.

ARTICLE 1: GENERAL PROVISIONS.

§ 155.101 TITLE.

An ordinance imposing comprehensive regulations upon the use of land within the village by dividing the village into various use districts, imposing regulations as to the use of land, the location, height and bulk of buildings and other structures, establishing off-street parking requirements, creating a Village *Board of Zoning Appeals* and granting to it certain powers, creating the position of Village *Zoning Administrator* and granting that person certain powers, providing for *Zoning Certificates*, *Conditional Use Permits*, and *Zoning Variances*, providing for a system to *Amend the Code* codified herein, providing for *Penalties and Remedies* for violation of the ordinance codified herein and a procedure to enforce its provisions, and adopting an official *Zoning District Map*.

§ 155.102 SHORT TITLE.

This chapter shall be known and may be cited in all proceedings as the "Zoning Code of the Village of Albany, Ohio."

§ 155.103 AUTHORITY AND PURPOSE.

This chapter is enacted pursuant to the authority vested in this Village by *Articles XVIII, Section 3, of the Ohio Constitution* and is intended to exercise the broadest authority permitted by law over the use of land within this Village while at the same time recognizing and protecting the rights of individuals to use their land as they deem best. The Zoning Code is enacted for the purpose of promoting the public health, safety, morals and general welfare of the residents of the Village of Albany, Ohio; to encourage the economic development of the Village, to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts; to facilitate the provision of public utilities and public services; to lessen congestion on public streets, roads, and highways; to provide for the administration and enforcement of the Zoning Code, the Ohio Revised Code, or common law rulings; and to prescribe penalties for violations of the zoning code.

§ 155.104 RELATIONSHIP TO OTHER LEGISLATION.

This chapter is intended to be comprehensive legislation with respect to the use of land within this Village. All prior Ordinances inconsistent herewith are repealed to the extent of their inconsistency, remaining in full force and effect where consistent with the provisions of these Regulations. The Village reserves the right at any time to alter, amend or add to these Regulations. The section of paragraph Headings contained herein are added for convenience only. This code shall be construed in accordance with the laws of the State of Ohio and shall not be deemed to repeal the *Albany Subdivision Regulations*, the code or ordinances of the village, or any ordinances, resolutions or rules of the village dealing with water, sanitary sewers, streets, or storm sewers as are presently in effect.

§ 155.105 CONSTRUCTION.

The following rules shall be applied in the construction and application of this chapter:

- (A) Compliance with the Constitution of the United States and with the State of Ohio was intended;
- (B) Compliance with state statutes insofar as they are mandatory was intended;
- (C) A just and reasonable result was intended;
- (D) A result feasible of execution was intended;
- (E) The title of all sections of this chapter are intended for identification only and in the event of a conflict between the title and the text of section, the text shall control;
- (F) The word "shall" is mandatory, the word "may" is permissive;
- (G) In the event a word or phrase is not defined in this chapter; it shall be presumed to be used in its ordinary dictionary definition;
- (H) In the event of a conflict between a general provision and a specific provision, the specific provision shall control;

- (I) Words used in the singular shall include the plural and words used in the plural shall include the singular.
- (J) Words used in the present shall include the future;
- (K) The conjunction "and" means all connected items shall apply; the conjunction "or" means any of the connected items may apply singly or in combination; the phrase "either or" means that the connected items shall apply singly, but not in combination.

§ 155.106 SEVERABILITY.

If any section of this chapter is declared invalid, unenforceable, or unconstitutional by a court of competent jurisdiction with respect to the application of that section to a parcel of land or an owner of that land, the invalidity, unenforceability, or unconstitutionality shall not be deemed to affect the validity, enforceability, or constitutionality of that provision as to any other parcel of land or any other owner of land. If any section of this chapter is declared invalid, unenforceable, or unconstitutional, *per se*, by a court of competent jurisdiction, the declaration shall not affect any other section of this chapter or the chapter as a whole. The balance of this chapter shall remain in full force and effect and the section declared invalid, unenforceable, or unconstitutional shall be deemed to have never been enacted.

§ 155.107 APPLICABILITY.

This chapter applies to all land and to every structure lying within the corporate limits of the Village of Albany as those limits now exist or may hereinafter be extended by annexation except land owned by this Village. Land owned by the United States of America, the State of Ohio, Athens County, Alexander Township, Lee Township, the Alexander Local School District or any other political subdivision or any department or agency of any of them shall be subject to this chapter except to the extent expressly exempted by law.

Statutory reference:

Albany Zoning Code § 155.754

§ 155.108 ESTABLISHMENT OF DISTRICTS.

For determining the regulations of land and structures as imposed by this chapter, the corporate limits of the Village are hereby divided into the following use districts:

- R-1 Residential (One Family) (Low Density Residential District)
- R-2 Residential (One & Two Family) (Medium Density Residential District)
- R-3 Residential (Multi-family) (High Density Residential District)
- B-1 Neighborhood Business District
- B-2 General Business District
- RD Rural District
- C-I Campus-Institutional District

§ 155.109 ESTABLISHMENT OF ARTERIAL STREETS.

The following streets, and no others, in their entirety throughout the Village Corporation limits, are hereby designated as Arterial streets for determining the regulations of land and structures as imposed by this chapter.

- 1) Ohio State Route 681
- 2) Washington Road
- 3) Meadowbrook Road
- 4) Carpenter Road
- 5) McCoy Avenue

§ 155.110 INTERPRETATION OF ZONING BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the official zoning districts map, the following rules shall apply; Boundaries as indicated on the official zoning districts map as approximately;

- (A) following the center lines of streets, highways, or alleys shall be construed to follow the center lines.
- (B) following platted lot lines shall be construed as following the lot lines.
- (C) following the corporation boundary line shall be construed as following the corporation boundary line.
- (D) following railroad tracks shall be construed to be midway between the main tracks.
- (E) following the center line of streams, rivers or other bodies of water shall be construed to follow the center lines.
- (F) parallel to or extensions of features indicated in divisions (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning districts map shall be determined using a scale shown on the map.

§ 155.111 ZONING OF ANNEXED AREAS.

Any area annexed to the village shall immediately, upon the annexation, be classified according to one of the district classifications provided in § 155.108 of this chapter. Within one (1) month from the date the Village Council accepts a newly annexed parcel(s) and pursuant to Article 8(E) of this chapter, the Planning Commission shall recommend to Village Council the appropriate district(s) for the annexed area. If that recommendation is rejected by Village Council, the matter shall be sent back to the Planning Commission for further review.

(Ord. 2022-12, Passed 3/16/2022)

§ 155.112 ZONING OF VACATED AREAS.

Whenever any street, alley or other public way is vacated by official action as provided by law, the district of the area adjoining the side of such public way shall be extended automatically, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which, shall thence-forth be subject to all zoning regulations of the lot to which it has been added.

§ 155.113 EXCLUSIONARY NATURE OF CHAPTER.

This chapter shall be deemed to be exclusionary in nature and any use of land not specifically allowed by this chapter in a district or in any district shall be deemed to be a use which was intentionally excluded from the district or all districts.

§ 155.114 PROCEDURES FOR ADMINISTRATION.

(A) Zoning Administrator.

- (1) There is established the office of Zoning Administrator to enforce the Albany Zoning Code and Subdivision Regulations in accordance with the administrative provisions of said regulations and the building code.
- (2) No permit or license shall be issued by the Zoning Administrator for any use, building or purpose in conflict with the provisions of the Albany Zoning Code, Subdivision Regulations, Utility Codes, or any other village regulations, ordinances, or resolutions.
- (3) Any permit or license (including any formal action evidenced in writing, including orders or certificates issued by the Zoning Administrator) issued in conflict with this code, shall be null and void.
- (4) The position of Village Zoning Administrator shall become a duty of the Village Administrator. The Mayor shall act as Zoning Administrator in the absence of the Village Administrator. While the mayor is acting as Zoning Administrator, President Pro Tempore of Village Council shall fulfill all duties of the mayor in relation to this Zoning Code.

(B) Duties of the Zoning Administrator

- (1) To apply the provisions of this code, including the zoning map and notification of any violations, faithfully to the text of its provisions. The purpose of this code is set forth in § 155.103, and the provisions of the code shall be applied to accomplish that purpose.
- (2) In their interpretation and application, the provisions of this code shall be held to be minimum requirements. Wherever this code imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the more restrictive shall govern.
- (3) Receive and process applications for a zoning certificate where new construction is to be carried out.
- (4) Receive and process applications for all other zoning certificates, according to *Article 8(B)*.
- (5) Conduct inspections (§ 155.116) of structures, buildings, dwellings, properties, or conditions to determine compliance with this code, and, in the case of any violation, notify in writing the person or persons responsible, specifying the nature of the violation, and ordering appropriate corrective action.
- (6) Maintain and keep the Official Zoning District Map up to date, for inspection by the public.
- (7) Maintain permanent and current records required by this code, including all permits and such other official records as are not the specific responsibility of the Clerk of Council, and prepare and submit any reports that are necessary for communication of development data to official Village and outside agencies.
- (8) Serve as technical staff to the Planning Commission and the Board of Zoning Appeals.
- (9) Provide information on planning and zoning matters to elected and appointed officials and to the public.

(C) Rules and Regulations

- (1) The Zoning Administrator is hereby authorized to make and adopt rules and regulations for the internal administration of his or her office, provided that such rules and regulations shall not be in conflict with provisions or intent of this ordinance, or applicable rules, regulations, and provisions of law.
- (2) The Zoning Administrator shall, as a part of those rules, adopt and prescribe forms for the carrying out of the provisions of this code.
- (3) All rules and regulations adopted by the Zoning Administrator, in accordance with and to carry out the provisions of this code, shall have the same force and effect as the provisions of this code.

(ORD. 2021-14, Passed 5-19-2021)

§ 155.115 SITE DEVELOPMENT PLAN.

- (A) Compliance with all provisions of *Albany Village Code Chapter 156*, Site Development Plan, and any special provisions therein shall be completed before any development is issued a Zoning Certificate, Water and/or Sewer connections, or any other Village-issued permits.
- (B) It shall be the duty of the landowner, and land user, and the developer, to complete all site development plan duties as set forth in *Albany Village Code Chapter 156*, Site Development Plan.

(RES. 2019-23, Passed 8-27-2019)

§ 155.116 PROPERTY INSPECTION.

(A) Plans for Inspections

- (1) The Zoning Administrator shall develop and adopt a plan for the inspection of any structure, building, dwelling, property, or condition subject to the provisions governing the issuance by the Village of any Certificate, Permit, or License. Such plan for inspection shall include a provision

which will give an owner, tenant, or occupant a minimum of 24 hours' notice, in writing, prior to an inspection, however, the 24-hour notice may be waived by the owner, tenant, or occupant. Such plan for inspection shall also include the procedure set forth in § 155.116(B) of this chapter if the owner, tenant, or occupant, after being notified of the right to refuse entry, does not consent to a proposed inspection by the Zoning Administrator.

- (2) The purpose of the plan and inspection shall be to evidence compliance with any Certificate, Permit, or License applied for or issued, and to determine compliance with this code in regard to any allegation of a violation thereof.
- (3) All rules and regulations and plans for inspections shall be made public, a copy of which shall be made available to a member of the public upon request.

(B) Responsibilities.

- (1) Inspections For Review of Application for A Permit, License, or Certificate.
 - a. As part of processing an application for, and prior to issuing, a zoning certificate, pursuant to § 155.114(B)(3) of this chapter, or any other zoning certificate, § 155.114(B)(4) of this chapter, or any other license permitted under the Albany Zoning Code, the Zoning Administrator shall make an inspection of a structure, building, dwelling, property, or condition pursuant to an inspection plan as authorized in § 155.116(A)(1) of this chapter.
 - b. Prior to making an inspection under § 155.116(B)(1)(a), the Zoning Administrator shall provide an owner, tenant, or occupant a minimum of 24 hours' notice, in writing, prior to an inspection, however, the 24-hour notice may be waived by the owner, tenant, or occupant. Such notification shall notify the owner, tenant, or occupant of the right to refuse entry. Such notification shall also notify the owner, tenant, or occupant that refusal to allow such inspection shall result in denial of any application for a zoning permit, other zoning certificate, or other license.
 - c. Any inspection pursuant to this subsection shall be conducted during daylight hours.

(2) Inspections For Allegations of a Zoning Code Violation.

- a. In response to a complaint that an alleged violation of a provision of this code or of a rule and/or regulation adopted pursuant thereto has been committed, or when the Zoning Administrator has a valid reason to believe that a violation of a provision of the code, or any rule and/or regulation adopted pursuant thereto, exists, the Zoning Administrator shall make an inspection of a structure, building, dwelling, property, or condition pursuant to an inspection plan as authorized in § 155.116(A)(1) of this chapter.
- b. Prior to making an inspection under § 155.114(B)(2)(a). The Zoning Administrator shall provide an owner, tenant, or occupant a minimum of 24 hours' notice, in writing, prior to an inspection, however, the 24-hour notice may be waived by the owner, tenant, or occupant. Such notification shall notify the owner, tenant, or occupant of the right to refuse entry. No criminal penalty or other penalty or fine under the Albany Zoning Code shall attach solely by reason of the owner's, tenant's, or occupant's refusal to consent to such inspection.
- c. If the owner, tenant, or occupant does not consent to an inspection under § 155.114(B)(2)(a), the Zoning Administrator shall appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Such application for an administrative search warrant shall be made within ten (10) calendar days after the Zoning Administrator receives notice of the owner's, tenant's, or occupant's refusal of consent. The application for an administrative search warrant shall specify the basis upon which the warrant is sought and shall include a statement that the inspection shall be limited to a determination of whether there is a violation or violations of the Albany Zoning Code. The application for an administrative search warrant shall include any of the following factors upon which the court may consider and determine to be pertinent to its decision as to whether an administrative

warrant shall be issued: 1) eyewitness account(s) of a violation; 2) citizen complaint; 3) tenant complaint; 4) plain view violation; 5) violation apparent from Village records; 6) property deterioration; 7) age of property; 8) nature of alleged violation; 9) condition of similar properties in the area; 10) documented violations on similar properties in the area; 11) passage of time since last inspection of the structure, building, dwelling, property, or condition; and 12) previous violations on the structure, building, dwelling, property, or condition.

- d. If an administrative warrant is issued pursuant to § 155.116(B)(2)(c) of this chapter, no owner, tenant, occupant, or respective agent shall fail or neglect, upon presentation of the administrative warrant, to properly permit entry therein by the Zoning Administrator for the purpose of conducting the inspection pursuant to this section and consistent with the terms of the administrative warrant. If no administrative warrant is sought or if no administrative warrant is issued by a court of competent jurisdiction, any inspection shall be limited in scope only to such areas as are in plain view.
- e. Any inspection pursuant to this subsection shall be conducted during daylight hours.

(3) If, upon inspection, a structure, building, dwelling, property, or condition is found in violation of this code, the Zoning Administrator shall issue to the owner of said structure, building, dwelling, property, or condition or his authorized agent a list of noted violations to be known as a "Notice of Violation." as set forth in § 155.901 and § 155.902 of this code.

(4) The Zoning Administrator shall be responsible for keeping a written record of the findings of all inspections. These records shall be maintained as public records and shall be made available to the public upon request.

(5) All information regarding application and notices of violations pertaining to any premises shall be public record and available upon request.

(C) **Emergency Orders; Other Court Orders.** Upon application of the Zoning Administrator, supported by affidavit, the court of competent jurisdiction is authorized to issue an appropriate ex parte order dealing with the emergency situation. The Zoning Administrator is authorized to seek injunctive and other relief from a court of competent jurisdiction to enforce the inspection provisions of this section.

(D) **Intragovernmental Cooperation.** The Zoning Administrator may request the assistance and cooperation of any or all Village, County, or State agencies necessary to enforce this code.

(E) **Restriction on Employees.** No officer or employee of the village who is charged with the duty of conducting inspections shall be financially interested in the furnishing of labor or materials for the construction or alteration, or in the making of plans or specifications for any structure, building, dwelling, property, or condition, of the property being inspected, within the Village of Albany, unless he/she is the owner-occupant of the same.

(Ord. 2021-14, Passed 5-19-2021)

Albany Village Code Supplement
Chapter 155: Albany Zoning Code

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Albany Village Code Supplement
TITLE XV: Land Usage

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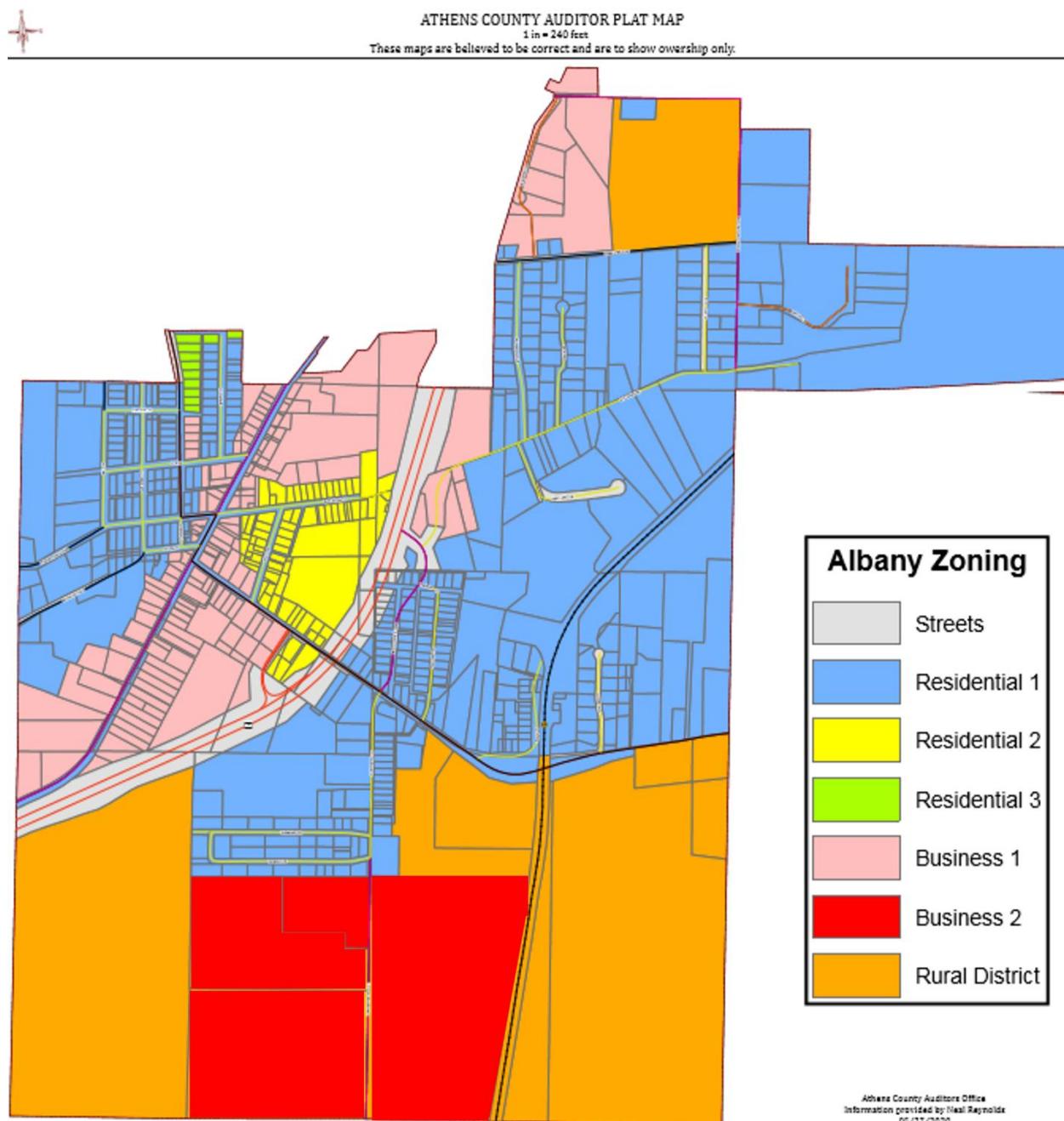
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§155.199 ESTABLISH ZONING MAP.

- The location of each of the zoning districts provided for in this chapter are shown upon the Official Zoning District Map which is incorporated by reference as **Exhibit 1** below.
- The Official Zoning District map is displayed in the Albany Village Council chambers and is identified by a certificate signed by the Mayor, Fiscal Officer and Zoning Administrator stating, *'THIS IS THE OFFICIAL ZONING DISTRICT MAP OF THE VILLAGE OF ALBANY, ATHENS COUNTY, OHIO DULY ADOPTED BY THE COUNCIL OF THE VILLAGE IN ORDINANCE 01-21-2015(F)'* and shall be the final authority as to the current zoning status of land areas within the Village.

EXHIBIT 1: OFFICIAL ZONING MAP



ARTICLE 2: RESIDENTIAL DISTRICTS.

(A) RESIDENTIAL R-1

§ 155.201 PURPOSE.

- (A) The purpose of the Residential R-1 District is to provide for low density residential development with a minimum of non-residential intrusion. It generally allows only Single-Family residential dwellings, along with a mix of other uses (i.e., Principal Permitted, Permitted Accessory, and Conditionally Permitted uses, and *Accessory Buildings*, as defined and identified in this Code) that are compatible with and/or provide services to the R-1 residential area, as Specified in *TABLE 1*.
- (B) A building or premises shall be used only for the purpose permitted in the applicable Residential District and no other uses shall be permitted.
- (C) These neighborhoods must be served by central water and sewer facilities, in accord with the Albany Water Code and the Albany Sewer Code, respectively.

§ 155.202 PRINCIPAL PERMITTED USES.

The Principal Permitted Use within an R-1 Residential District shall be as follows:

- (A) Any Residential District Principal Permitted (PP) Use, for an R-1 Residential District, as set forth in *TABLE 1* of this code.
- (B) A Mobile Home if it satisfies the requirements as set forth in § 155.752 of this code.

§ 155.203 PERMITTED ACCESSORY USES.

- (A) Permitted Accessory Uses as set forth in § 155.704.
- (B) Temporary building as set forth in § 155.758 of this code.

§ 155.204 CONDITIONALLY PERMITTED USES. (REQUIRES CONDITIONAL USE PERMIT)

Any Residential District Conditionally Permitted (CU) Use, for an R-1 Residential District, as set forth in *TABLE 1* of this code and subject to the provisions of the *Conditional Use Permit* section of this code.

§ 155.205 ACCESSORY BUILDINGS.

Accessory buildings, as set forth in § 155.751.

§ 155.206 GENERAL REGULATIONS.

The following Regulations shall apply in all R-1 Residential Districts.

- (A) No building shall be erected, reconstructed, or structurally altered to be less than the minimum requirements, nor to exceed the maximum requirements of any provision set forth in the *General Conditions Applicable to all Districts* section of this code for the zone district in which such building is located.
- (B) No building shall be erected, reconstructed, or structurally altered in any way which violates any other appropriate conditions and safeguards in conformance with this code that the Board of Zoning Appeals may prescribe as part of a variance or conditional use.

§ 155.207 EXCLUDED R-1 RESIDENTIAL USES.

In an R-1 Residential District, the following uses are excluded:

- (A) No use not specifically authorized by the express terms of this subchapter shall be permitted.
- (B) Outdoor storage of inoperable, unlicensed, or unused motor vehicles is prohibited. The vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- (C) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard, or nuisance to the neighborhood or general public.

(B) RESIDENTIAL R-2

§ 155.221 PURPOSE.

- (A) An **R-2** district provides for medium density residential development with a minimum of non-residential intrusion. It generally allows Single Family and Two-Family residential dwellings, along with a mix of other uses (i.e., Principal Permitted, Permitted Accessory, and Conditionally Permitted uses, and *Accessory Buildings*, as defined and identified in this Code) that are compatible with and/or provide services to the R-2 residential area, as Specified in *TABLE 1*.
- (B) A building or premises shall be used only for the purpose permitted in the applicable Residential District and no other uses shall be permitted.
- (C) These neighborhoods must be served by central water and sewer facilities, in accord with the Albany Water Code and the Albany Sewer Code, respectively.

155.222 PRINCIPAL PERMITTED USES.

The Principal Permitted Use within an R-2 Residential District shall be as follows:

- (A) Any Residential District Principal Permitted (PP) Use, for an R-2 Residential District, as set forth in *TABLE 1* of this code.
- (B) A Mobile Home if it satisfies the requirements as set forth in § 155.752 of this code.

§ 155.223 PERMITTED ACCESSORY USES.

- (A) Permitted Accessory Uses as set forth in § 155.704.
- (B) Temporary building as set forth in § 155.758 of this code.

§ 155.224 CONDITIONALLY PERMITTED USES. (REQUIRES CONDITIONAL USE PERMIT)

Any Residential District Conditionally Permitted (CU) Use, for an R-2 Residential District, as set forth in *TABLE 1* of this code and subject to the provisions of the *Conditional Use Permit* section of this code.

§ 155.225 ACCESSORY BUILDINGS.

Accessory buildings, as set forth in § 155.751.

§ 155.226 GENERAL REGULATIONS.

The following Regulations shall apply in all R-2 Residential Districts.

- (A) No building shall be erected, reconstructed, or structurally altered to be less than the minimum requirements, nor to exceed the maximum requirements of any provision set forth in the *General Conditions Applicable to all Districts* section of this code for the zone district in which such building is located.
- (B) No building shall be erected, reconstructed, or structurally altered in any way which violates any other appropriate conditions and safeguards in conformance with this code that the Board of Zoning Appeals may prescribe as part of a variance or conditional use.

§ 155.227 EXCLUDED R-2 RESIDENTIAL USES.

In an R-2 Residential District, the following uses are excluded:

- (A) No use not specifically authorized by the express terms of this subchapter shall be permitted.
- (B) Outdoor storage of inoperable, unlicensed, or unused motor vehicles is prohibited. The vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- (C) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard, or nuisance to the neighborhood or general public.

(C) RESIDENTIAL R-3

§ 155.241 PURPOSE.

- (A) An **R-3** district provides for higher density residential development with some limited commercial intrusion. It generally allows Two Family and Multiple Family residential dwellings, along with a mix of other uses (i.e., Principal Permitted, Permitted Accessory, and Conditionally Permitted uses, and *Accessory Buildings*, as defined and identified in this Code) that are compatible with and/or provide services to the R-3 residential area, as Specified in *TABLE 1*.
- (B) A building or premises shall be used only for the purpose permitted in the applicable Residential District and no other uses shall be permitted.
- (C) These neighborhoods must be served by central water and sewer facilities, in accord with the Albany Water Code and the Albany Sewer Code, respectively.

155.242 PRINCIPAL PERMITTED USES.

The Principal Permitted Use within an R-3 Residential District shall be as follows:

- (A) Any Residential District Principal Permitted (PP) Use, for an R-3 Residential District, as set forth in *TABLE 1* of this code.
- (B) A Mobile Home if it satisfies the requirements as set forth in § 155.752 of this code.

§ 155.243 PERMITTED ACCESSORY USES.

- (A) Permitted Accessory Uses as set forth in § 155.704.
- (B) Temporary building as set forth in § 155.758 of this code.

§ 155.244 CONDITIONALLY PERMITTED USES. (REQUIRES CONDITIONAL USE PERMIT)

Any Residential District Conditionally Permitted (CU) Use, for an R-3 Residential District, as set forth in *TABLE 1* of this code and subject to the provisions of the *Conditional Use Permit* section of this code.

§ 155.245 ACCESSORY BUILDINGS.

Accessory buildings, as set forth in § 155.751.

§ 155.246 GENERAL REGULATIONS.

The following Regulations shall apply in all R-3 Residential Districts.

- (A) No building shall be erected, reconstructed, or structurally altered to be less than the minimum requirements, nor to exceed the maximum requirements of any provision set forth in the *General Conditions Applicable to all Districts* section of this code for the zone district in which such building is located.
- (B) No building shall be erected, reconstructed, or structurally altered in any way which violates any other appropriate conditions and safeguards in conformance with this code that the Board of Zoning Appeals may prescribe as part of a variance or conditional use.
- (C) Proposed development shall have one property line abutting an arterial thoroughfare or the boundary line of a B-1 or B-2 Business District.
- (D) Unless the property owner demonstrates clearly that a landscaped screening or obscuring fence is not needed to protect other properties in any way, a six (6) foot high landscaped screening or obscuring fence approved by the Zoning Administrator along all sides of the property, except the front, which abuts a residential district shall be required. This landscaped screening or fence shall be constructed no closer to the front property line than the minimum setback line along the sides of property.
- (E) Any R-3 business use specified as permitted in an R-3 district by Conditional Use Permit (CU) shall be subject to the following conditions:
 - (1) The business shall not have a usable floor area in excess of 2,000 square feet if the business is part of a residential-use building.

- (2) No single building used only for business in an R-3 district shall have a greater usable floor area of more than 3,000 square feet.
- (3) Issuance of a Conditional Use Permit for a business use in any R-3 district is contingent upon compliance with § 155.304 defining residential use in a business district except as hereinafter specified for *Home Occupation* as defined in of this code.

§ 155.247 EXCLUDED R-3 RESIDENTIAL USES.

In an R-3 Residential District, the following uses are excluded:

- (A) No use not specifically authorized by the express terms of this subchapter shall be permitted.
- (B) Outdoor storage of inoperable, unlicensed, or unused motor vehicles is prohibited. The vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- (C) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard, or nuisance to the neighborhood or general public.

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ARTICLE 3: BUSINESS DISTRICTS.

(A) NEIGHBORHOOD BUSINESS DISTRICT (B-1)

§ 155.301 PURPOSE.

The B-1 Neighborhood Business Districts are established to provide land, at suitable locations, for small individual retail establishments, including convenience-type goods and personal services, which serve the daily needs of the people in residential areas.

The B-1 Districts will also allow the continued development of the area as a mixed-use business-residential district. Since business establishments are located in close proximity to the residential areas, the area requirements are more restrictive than in other commercial zoning districts. A building or premises shall be used only for the purpose permitted in a B-1 District with conflicts between the two uses minimized through enforcement of the requirements of this chapter.

These neighborhoods must be served by central water and sewer facilities, in accord with the Albany Water Code and the Albany Sewer Code.

§ 155.302 PRINCIPAL PERMITTED USES.

B-1 District Principal Permitted (PP) Uses are set forth in *TABLE 1* of this code.

§ 155.303 PERMITTED ACCESSORY USES.

B-1 Permitted Accessory Uses are as set forth in § 155.704 of this code.

§ 155.304 CONDITIONALLY PERMITTED USES. (*REQUIRES CONDITIONAL USE PERMIT*)

B-1 District Conditionally Permitted Uses (CU) are set forth in *TABLE 1* of this code and subject to the provisions of the *Conditional Use Permit* section of this code.

§ 155.305 GENERAL REGULATIONS.

- (A) No building shall be erected, reconstructed, or structurally altered to be less than the minimum requirements, nor to exceed the maximum requirements of any provision set forth in the *General Conditions Applicable to all Districts* section of this code for the zone district in which such building is located.
- (B) No building shall be erected, reconstructed, or structurally altered in any way which violates any other appropriate conditions and safeguards in conformance with this code that the Board of Zoning Appeals may prescribe as part of a variance or conditional use.
- (C) No loudspeakers shall be located outside of any building, nor shall they be permitted to be used inside any building in such a manner that they are designed or intended to broadcast outside of the buildings.
- (D) No commercial building shall be constructed closer than forty (40) feet to any existing conforming residence.
- (E) Residential unit(s) in conjunction with a commercial establishment are permitted provided no residential unit is located on the ground/first floor of the structure.

Any existing one- or two-family dwelling may be converted to and thereafter occupied as a commercial or business establishment only after the issuance of a Conditional Use Permit as provided for in *TABLE 1* of this code and subject to the provisions of the *Conditional Use Permit* section of this code and shall comply with each and all of the conditions established by the Board of Zoning Appeals and by all other requirements of this chapter, including without limitation § 155.305 (E) above.

§ 155.306 RESTRICTIVE RULES ON RESIDENTIAL BUILDINGS IN A B-1 DISTRICT.

- (A) There shall be no residential use on the ground/first floor in a B-1 Zone.
- (B) Residential use on the ground/first floor in a B-1 Zone shall be a permitted use in the following circumstances:
 - (1) Where the residential use commenced prior to the adoption of the November 2003 Zoning Code and has been so used continuously since that date of adoption of the Zoning Code. It shall be the duty of the landowner to prove by clear and convincing evidence this residential use as of and prior to that date and continuously since that date.
- (C) If a property that qualifies under § 155.306(A) is destroyed or damaged, then the property may be restored to a residential use, provided a Conditional Use Permit application, submitted on a form provided by the Village, is applied for and granted prior to commencement of such restoration work, and any such restoration complies with the conditional use permit, if granted. A conditional use permit sought in pursuance of this 155.306(A) shall be timely, if and only if, the landowner files an Application for *Conditional Use Permit* within six (6) months following the date of the damage or destruction.
- (D) No Conditional Use Permit may permit the residential use of the ground/first floor in a B-1 District. (see also Section 155.305(E) above).

§ 155.307 EXCLUDED B-1 BUSINESS USES.

The following uses shall not be permitted in the B-1 Business Zone:

- (A) Any Residential use on the ground/first floor of any structure, subject, however, to the provisions of § 155.306.
- (B) Automobile wrecking, salvage yards, or junkyards.
- (C) Garbage or rubbish haulers or recycling operations
- (D) Sewer or septic cleaning or repairing.
- (E) Junk or unlicensed motor vehicles stored outside any building or structure.
- (F) House trailers, industrial units, and manufactured homes.

(RES. 2019-40, Passed 10-16-2019)

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(B) GENERAL BUSINESS DISTRICT (B-2)

§ 155.321 PURPOSE.

The B-2 General Business Districts are established to provide land, at suitable locations, for the concentration of a wide variety of major business establishments engaged in selling, servicing or repairing goods and materials, manufacturing, assembling and processing of raw materials or parts, providing adult entertainment and/or sexually oriented business regulated by Albany Village Ordinance 09-18-2012(D), or where the transfer and storage of goods can occur without detrimental effect upon the balance of the village. Such districts must provide adequate parking, be located adjacent to *Arterial Streets*, have access points restricted to arterial streets, and be screened or fenced from surrounding residential areas. A building or premises shall be used only for the purpose permitted in the B-2 District. These neighborhoods must be served by central water and sewer facilities, in accord with the Albany Water Code and the Albany Sewer Code.

§ 155.322 PRINCIPAL PERMITTED USES.

Any B-2 District Principal (PP) Use as set forth in *TABLE 1* of this code.

§ 155.323 PERMITTED ACCESSORY USES,

Any B-2 District Permitted Accessory (PA) Use as set forth in *TABLE 1* of this code.

§ 155.324 CONDITIONALLY PERMITTED USES. (REQUIRES CONDITIONAL USE PERMIT)

(A) Any B-2 District Conditional (CU) Use as set forth in *TABLE 1* of this code and subject to the provisions of the *Conditional Use Permit* section of this code.

- Sexually Oriented Business pursuant to Albany Village Ordinance 09-18-2012(D),
- Nothing in this section shall be deemed to alter or amend Albany Village Ordinance 09-18-2012(D) on Sexually Oriented businesses, or otherwise make any conduct legal which is illegal under that ordinance.

§ 155.325 GENERAL REGULATIONS.

(A) No building shall be erected, reconstructed, or structurally altered to be less than the minimum requirements, nor to exceed the maximum requirements of any provision set forth in the *General Conditions Applicable to all Districts* section of this code for the zone district in which such building is located.

(B) No building shall be erected, reconstructed, or structurally altered in any way which violates any other appropriate conditions and safeguards in conformance with this code that the Board of Zoning Appeals may prescribe as part of a variance or conditional use.

In addition, the following Regulations shall apply in all B-2 Districts:

(C) Parcels within the B-2 General Business Districts shall have access directly onto only *Arterial Streets* and all driveways shall exit onto such arterial streets.

(D) Parcels within the B-2 General Business Districts shall have, in addition to the required setbacks, a six-foot high landscaped screening or obscuring fence approved by the Zoning Administrator along all sides of the property, except the front, which abuts a residential district. This landscaped screening or fence shall be constructed no closer to the front property line than the minimum setbacks line along the sides of property. In no instance, shall any fence contain electric current or charge of electricity.

(E) Raw materials, finished products, work in process, machinery or equipment may not be stored outside of an enclosed structure except in the side or rear yards. No storage shall be allowed on any areas required by the *Height and Area Requirements* of this code. Any such materials must be hidden by an appropriate obscuring fence so that they are not visible from adjacent properties or

the public street upon which the building is located. The area of outside storage shall not exceed 25% of the building area.

- (F) Night operation- No building customarily used for night operations, such as a bakery or milk bottling and distribution station shall have an opening, other than stationary windows or required fire exits, within one hundred (100) feet of any Residential Zone, nor shall any space used for loading or unloading commercial vehicles used in connection with such an operation be located within one hundred (100) feet of any Residential Zone.
- (G) Enclosed buildings- All business, services or processing shall be conducted wholly within a completely enclosed building, except for the sale of automobile fuel, lubricants, and fluids at service stations; loading and unloading operations; parking; and the outdoor display or storage of vehicles, materials, and equipment.
- (H) No commercial building shall be constructed closer than forty (40) feet to any existing residence, or such further distance as shall protect the character of any adjacent Residential Zoned District.
- (I) All private or public housing is expressly prohibited from all B-2 General Business Districts.
- (J) No loudspeakers shall be located outside of any building, nor shall they be permitted to be used inside any building in such a manner that they are designed or intended to broadcast outside of the buildings.
- (K) Any other appropriate conditions and safeguards in conformance with this code that may be prescribed as part of a variance or conditional use.

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ARTICLE 4: SPECIAL DISTRICTS.

(A) RURAL DISTRICT (RD)

§ 155.401 PURPOSE.

The RD-1 Rural District (Former Agricultural District) is hereby created in order that there be areas within the Village which are either in agricultural cultivation or open land and not yet developed at urban densities. This zoning district is intended to allow the establishment of agricultural operation of property and structures within the corporation limits and future annexed property until such time as the land may be rezoned for another use. When developed, these districts must be served by central water and sewer facilities, in accord with the *Albany Water Code* and the *Albany Sewer Code*.

§ 155.402 PRINCIPAL PERMITTED USES.

- (A) Any RD-1 District Principal (PP) Use as set forth in *TABLE 1* of this code.
- (B) Farm residence and farm buildings
- (C) Agriculture including raising of crops, horticulture, floriculture, and viticulture.
- (D) Nursery (no retail structure).

§ 155.403 PERMITTED ACCESSORY USES.

- (A) Any RD-1 District Permitted Accessory (PA) Use as set forth in *TABLE 1* of this code.
- (B) Accessory buildings clearly related to the principal use which do not include any activity conducted as a business, except that one roadside stand offering for sale only agricultural products which are produced on the premises, including only one unlighted sign not exceeding twenty (20) square feet in area advertising such products, may be erected. Such roadside stand shall not be erected closer than thirty (30) feet from either side lot line. Such stand and sign and required off-street parking therefor shall be located and set back from the street in such a manner so as not to create a traffic hazard.
- (C) Parks and primarily outdoor recreational uses.
- (D) Churches, synagogues, and temples for religious worship located not less than twenty (20) feet from any other lot in a Residential District.

§ 155.404 CONDITIONALLY PERMITTED USES. (REQUIRES CONDITIONAL USE PERMIT)

- (A) Any RD-1 District Conditional (CU) Use as set forth in *TABLE 1* of this code and subject to the provisions of the *Conditional Use Permit* section of this code.
- (B) Cemeteries
- (C) Nursery (with a retail structure).
- (D) Dog Kennels provided that:
 - (1) no kennel shall be located closer than 300 feet from any adjoining property line,
 - (2) such kennel complies with and is operated in compliance with all applicable law,
 - (3) that no more than one dog per acre of property on which the kennel is located shall be kept in the kennel, but no more than a maximum of six (6) dogs may be kept in any kennel and only one kennel shall be permitted on any parcel.
- (E) Greenhouses
- (F) Athletic fields
- (G) Home occupations are subject to the *Home Occupations* section of this code.
- (H) An animal for the very limited purpose of a qualified 4-H project, provided all other requirements of this code are met.
- (I) Domestic farm animals on a non-commercial basis, on a parcel of at least five (5) acres provided, that the number of head of livestock shall not exceed one for each half acre of lot area with said animals permitted access to the entire minimum 5-acre parcel.

- (1) domestic farm animals shall include only the following; Cattle, Horses, Llamas, Mules, Burros, Sheep, Goats, and Swine (Only two swine may be kept on lots less than ten acres).
- (2) on-site slaughtering of any domestic farm animal is prohibited.
- (3) all yards and structures used to house or keep domestic farm animals shall be maintained in a sanitary condition, kept clean, and in good repair to prevent the breeding of flies and the emission of deleterious and offensive odors.
- (4) any person adversely affected by an RD-1 use or violation of this section may file a complaint with the Zoning Administrator who shall investigate and pursue such remedies and penalties as is deemed appropriate.

(RES. 2018-24, Passed 10-23-2018)

§ 155.405 GENERAL REGULATIONS.

- (A) No building shall be erected, reconstructed, or structurally altered to be less than the minimum requirements, nor to exceed the maximum requirements of any provision set forth in the *General Conditions Applicable to all Districts* section of this code for the zone district in which such building is located.
- (B) No building shall be erected, reconstructed, or structurally altered in any way which violates any other appropriate conditions and safeguards in conformance with this code that the Board of Zoning Appeals may prescribe as part of a variance or conditional use.
- (C) As provided, any lot or tract in such use shall be not less than five (5) acres in area and provided that any greenhouse heating plant and any buildings in which farm animals are kept as provided for in §§ 155.404(h-i) shall be distanced not less than two hundred (200) feet from every lot line.
- (D) Only one principal use shall be permitted on a lot, and such lot shall not be covered more than 20% by structure.
- (E) New buildings to be used for other than agriculture purposes, including dwelling units, shall be required to be rezoned to the appropriate classification and comply to the requirements of all Village Utility, Building, and Zoning Codes.

§ 155.406 EXCLUDED RURAL DISTRICT USES.

In the “RD-1” District the following uses are excluded:

- (A) Junk or unlicensed motor vehicles that are stored outside any building or structure.
- (B) Sale of liquor and beer
- (C) Gambling
- (D) Sanitary landfill or Commercial Incinerators
- (E) Soil removal and gravel extraction
- (F) Oil, gas, and brine wells and drilling and operations.
- (G) Stockyards, Feed lots, Rendering, and Slaughterhouses.
- (H) Concerts
- (I) Commercial Solar Farm

The listing of any of these excluded uses does not imply that such uses were included in the meaning of the term “agriculture” or “agricultural.”

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(B) CAMPUS-INSTITUTIONAL DISTRICT (C-I)

§ 155.411 PURPOSE.

The Campus-Institutional District (C-I) and its regulations are established in order to accommodate institutional facilities and their associated uses in a manner that recognizes the unique development and location characteristics of large-scale institutional uses while respecting the needs of adjacent property owners and residents. As a result, this District sets out to both adequately buffer institutional uses from adjacent lower-density residential uses and integrate institutional uses with adjacent nonresidential neighborhoods. Specifically, the Campus-Institutional District and its regulations are established in order to accommodate civic buildings and other institutional facilities and their associated uses in a manner that provides flexibility for large-scale campus and institutional uses.

§ 155.412 GENERAL PROVISIONS.

- (A) The regulations in this chapter shall apply to all Campus-Institutional Districts (C-I). Only lands owned by Primary and Secondary public schools, Colleges or Universities, hospitals, and other similar public or private nonprofit organizations with a minimum of three (3) acres of contiguous land area shall be eligible for classification as a Campus-Institutional District (C-I).
- (B) Once the C-I District is established, parcels within the district shall not be further subdivided to an area less than one acre nor a lot of width less than 150 feet.
- (C) A property previously situated in a Campus-Institutional District (C-I) shall become disqualified for the Campus-Institutional District (C-I) zoning designation should that property be sold or transferred to a non-qualifying owner, lessee, or for-profit operator as set forth in §155.502(A) above. When the Zoning Administrator determines that such disqualifying condition has occurred the Zoning Administrator shall submit such determination in writing to the Albany Planning Commission. Upon such a finding that the disqualifying condition has occurred, the Planning Commission shall find and order that the Campus-Institutional District (C-I) zoning designation be removed from such property, and the Albany Planning Commission shall then rezone said property as set forth in the procedures of this Albany Zoning Code.

§ 155.413 PRINCIPAL PERMITTED USES.

- (A) Educational facilities including primary and secondary schools, Colleges, universities, and theological schools, including their buildings owned or leased for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, conference-centers, libraries, student, and faculty centers including eating and snack facilities, athletic facilities but not including colleges or trade schools operated for profit.
- (B) Hospitals and clinics, including dormitories for nurses and attendants, other than a hospital for persons suffering from insanity or other mental diseases or such diseases commonly isolated in a separate building.
- (C) Restaurants, Lodges, and Club houses containing dining rooms, snack bars or vending machine areas.
- (D) Fairgrounds operated by a nonprofit organization.
- (E) Aquatic facilities, water parks, beaches, marinas, swimming pools, and fishing lakes.
- (F) Public parks, recreational playgrounds, golf courses, and similar open space facilities.
- (G) Outdoor Entertainment; amphitheaters, stadiums, racetracks, and similar outdoor facilities.
- (H) Campgrounds, cabins and/or other temporary lodging facilities.
- (I) Conservation areas or Nature preserves.
- (J) Museums and cultural or civic theaters.
- (K) Any use deemed similar by the Albany Planning Commission.

§ 155.414 PERMITTED ACCESSORY USES.

- (A) Administrative and entrance structures.
- (B) Administrative government offices, Public buildings, or Public safety facility.
- (C) Dormitories and other residential structures necessary for the conduct of a post-secondary educational institution;
- (D) Buildings or other structures associated with the temporary keeping of livestock.
- (E) Picnicking areas.
- (F) Public bicycle, jogging, running, walking and exercise paths.
- (G) Public restrooms and shelters including shower-houses.
- (H) Community centers and recreation buildings.
- (I) Festivals, fairs, parades, and expositions.
- (J) Fireworks displays, provided proper permits are obtained from all necessary regulatory agencies.
- (K) Gasoline fuel oil pumps and tanks. (Subject to Ohio EPA inspection and approval).
- (L) Buildings or other structures customarily incidental to any aforesaid uses.

§ 155.415 GENERAL REGULATIONS.

Loudspeakers, public address systems and electric amplifiers may be permitted by the Albany Village Council upon passage of legislation to suspend enforcement of Village Noise regulations for a specified period of time during any authorized fair or festivals. Such requests shall be made of the Village not less than thirty (30) days before the commencement of the fair or festival requesting such noise regulation suspension.

Following the placement of any property into the Campus-Institutional District (C-I), any newly constructed structure erected on a site within this district shall be set back a minimum of 100 feet from any lot line.

§ 155.416 EXCLUDED CAMPUS-INSTITUTIONAL DISTRICT (C-I) USES.

In the "C-I" District the following uses are excluded:

- (A) Junk or unlicensed motor vehicles that are stored outside any building or structure.
- (B) Sanitary landfill or Commercial Incinerators
- (C) Soil removal and gravel extraction
- (D) Oil, gas, and brine wells and drilling and operations.
- (E) Stockyards, Feed lots, Rendering, and Slaughterhouses.
- (F) Commercial Solar Farm.
- (G) No building or structure shall be used for residential purposes except that authorized personnel may reside on the premises for purposes of the caretaking of the campus, and except that short-term lodge room rental, cabin rental, or campsite rental is permitted also, and college dormitories are permitted.

The listing of any of these excluded uses does not imply that such uses were included in the meaning of the term "educational" or "institutional."

(Ord. 2021-03, Passed 2-17-2021)

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(C) RESERVED

§ 155.421

EDITOR'S NOTE: THERE ARE NO PROVISIONS IN THIS SUB-SECTION. THIS SUB-SECTION HAS BEEN ESTABLISHED TO PROVIDE A PLACE FOR FUTURE LEGISLATION.

§ 155.421

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ARTICLE 5: RESERVED.

§ 155.501

EDITOR'S NOTE: There are no sections in Article 5. This article has been established to provide a place for future legislation.

§ 155.501

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ARTICLE 6: RESERVED.

§ 155.601

EDITOR'S NOTE: There are no sections in Article 6. This article has been established to provide a place for future legislation.

§ 155.601

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ARTICLE 7: GENERAL CONDITIONS APPLICABLE to ALL DISTRICTS

(A) PERMITTED and PROHIBITED USES

§ 155.701 DISTRICT PERMITTED USES TABLE.

TABLE 1 of this Albany Zoning Code sets forth all allowed uses within the appropriate Districts:

- Principal Permitted.
- Permitted Accessory.
- Conditional Uses.
- Any other uses for each zoning district set forth herein

Chapter 155, Table 1, District Use Table.

PP= Principal Permitted Use	R1= Single Family Residential			B1= Neighborhood Bus.			
PA= Permitted Accessory Building or Use	R2= Two Family Residential			B2= General Business			
CU= Conditionally Permitted Use	R3= Multi Family Residential			RD= Rural District			
				C-I= Campus Institutional			

(a) ACCESSORY USES	R1	R2	R3	B1	B2	RD	C-I		
Accessory uses (as set forth in §155.704)	PA								
Accessory buildings (as set forth in §155.751)	PA								
Temporary Carport (as set forth in §155.751)	PA								
(b) ENTERTAINMENT, ADULT	R1	R2	R3	B1	B2	RD	C-I		
Adult Book store				CU					
Bar, Lounge, or Club				CU					
Microbreweries				CU	CU				
Sexually Oriented Business (re: <u>09-18-2012(D)</u>)					CU				
(c) ENTERTAINMENT	R1	R2	R3	B1	B2	RD	C-I		
Amphitheaters							PP		
Amusement Arcade				CU			PP		
Aquatic facility, Water Park, Beach							PP		
Billiard Room				CU			PP		
Entertainment Facility				CU			PP		
Museums, Cultural or Civic Theaters	CU	CU	CU	CU			PP		
Outdoor Entertainment							PP		
Theaters, not including outdoor				PP					
Theaters, including outdoor							PP		

Albany Village Code Supplement TITLE XV: Land Usage

Albany Village Code Supplement Chapter 155: Albany Zoning Code

Albany Village Code Supplement TITLE XV: Land Usage

NOTES:

- 1) *Public or private schools certified by the State of Ohio and offering courses in grades kindergarten through high school.*
- 2) *Residential unit(s) in conjunction with a commercial establishment are permitted only under the terms of 155.305, 155.306, and 155.307, provided no residential unit is located on the ground/first floor of structure.*
- 3) *See 155.305, 155.306, and 155.307.*
- 4) *No residential unit is permitted on the ground/first floor of any structure in a B-1 Zone.*
- 5) *Townhouse dwellings provided that there will be no more than four townhouse dwellings in any contiguous group.*

§ 155.702 PROHIBITED USES.

Any use not specifically listed in § 155.701, District Permitted Uses Table 1 as either a Principal, Accessory, or Conditional Use shall be a prohibited use in these zoning districts and shall only be permitted upon an Amendment to the Code and/or the zoning map or upon a finding by the Planning Commission that a use is substantially similar to a specified permitted or conditional use, as provided for in the § 155.703, Similar Uses.

Notwithstanding any other provision of this chapter the following uses are determined to be inconsistent with the proper use of land within the village and shall not be permitted in any zoning district:

- Asphalt manufacture
- Battery manufacture
- Brick or tile manufacture
- Cement, plaster, mortar, or creosote manufacture
- Commercial Solar Farm
- Computer Data Center (ORD 2025-22, Passed 11/5/2025)
- Fat rendering or production of animal or vegetable products by boiling or distillation.
- Garbage or other Waste Disposal plants or incinerators
- Gas and Oil wells, Hydraulic Fracturing, and related activities
- Junk or unlicensed motor vehicle stored outside any building or structure.
- Manufacture of fertilizer.
- Manufacture or storage of explosives including fireworks or matches.
- Paper, pulp, cardboard, building board manufacture.
- Pesticide manufacture
- Petroleum refinery
- Roofing material manufacture
- Rubber manufacture or reclamation
- Slaughterhouse
- Solid waste, hazardous waste, or radioactive waste disposal facilities
- Stockyard
- Tanning, curing, or processing of hides or animal skins

§ 155.703 SIMILAR USES.

Within each zoning district established by the Zoning Code and amendments thereto, uses of land or structures, which are compatible with each other, are permitted in the district. To the extent that new types of uses are created and are not addressed by this Zoning Code, this section provides the procedure by which the Planning Commission may make a determination that a new use is similar to a use permitted in a district.

(A) Determination. A proposed use may be permitted as a similar use when the Planning Commission determines that such proposed use is in compliance with the following provisions:

- (1) The proposed use is not prohibited in any other district;
- (2) The proposed use is not listed as a permitted use in any other district;
- (3) The proposed use conforms to and is consistent with the purpose statement of the proposed district more appropriately than in any other district;
- (4) The proposed use is of the same general character as the permitted uses in the district to which it is proposed or is similar to a specific use permitted in that district.

(B) Assignment to Districts. If the Planning Commission approves the proposed similar use, then the similar use shall be added to those districts that allow the principal or conditional use that is most similar, as identified in the Planning Commission's determination.

§ 155.704 ACCESSORY USES.

Except as otherwise expressly provided or limited in this Chapter, accessory uses are permitted in any zoning district in connection with any principal use lawfully existing within such district provided such uses conform to all applicable requirements of this code. In residential districts, this shall include activities which are in the nature of a hobby or recreation and not carried on with the intent to make a profit for the land occupant.

Accessory uses shall also include:

(A Zoning Certificate shall not be required to engage in an accessory use listed in this sub-section)

- (A) Off-street loading and parking facilities and the storage of goods used, produced, or offered for sale which shall be accessory uses in any business district only and subject to all regulations of the district where located;
- (B) Garage or other casual sales of personal property shall be considered an accessory use so long as they are limited to two times a year and for no longer than three days each time;
- (C) The storage of licensed motor vehicles or the parking of not more than one trailer, recreational vehicle, bus, or boat owned by residents of the premises only. *(Storage of any such items for non-residents of the premises whether or not a fee is charged, shall not be deemed as accessory use.)* All such items shall be stored no closer to the street than the minimum front yard setback requirements of the district;
- (D) The keeping of dogs (family, hunting), cats, or other domesticated pets, but shall not allow the keeping of exotic or dangerous animals such as, but not limited to, lions, tigers, bears, leopards, panthers, cougars, bobcats, wolves, foxes, apes, gorillas, poisonous or constrictor snakes, crocodiles, alligators, or pit bull dogs;
- (E) Landscape structures, swing sets, jungle gyms and other play devices not requiring a building permit, dumpsters, and trash handling areas;
- (F) Satellite television reception equipment, electricity producing windmills or amateur radio antennae provided that to the maximum extent feasible, such equipment shall be located in the rear yard of the residential use;
- (G) Restaurants, bars, newsstands, gift shops, clubs, lounges, cafeteria, dining halls, and similar food services operated primarily for the convenience of employees, clients, customers, or visitors to the principal use;
- (H) In a Rural District, the sale of fruits or vegetables grown on the premises where sold.

Statutory reference:

Albany Zoning Code § 155.403.

Accessory uses shall NOT include:

- (A) Any activity which is the subject of any advertising including, but not limited to newspaper, magazine, radio, television, poster, billboard, handbill, direct mailing, yearbook, telephone directory or other publications except as in subsection (b) above.
- (B) The parking of any semi-trailer in any Residential District is not permitted at any time or for more than twenty-four (24) hours in any B-1 Business District.

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(B) BULK CONTROLS

§ 155.721 APPLICATION OF REGULATIONS.

Except as hereinafter otherwise provided:

- (A) No building or structure of any type shall be erected, and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building be designed, used, or intended to be used for any purpose or in any manner other than as specified among the regulations herein listed as permitted in the zone district in which such building or land is located.
- (B) No building shall be erected, no existing building be altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, and building location regulations hereinafter designated for the zone in which such building or open space is located.
- (C) No yard or other open space provided about any building for the purpose of complying with the provisions of the zoning code shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

§ 155.722 NUMBER OF BUILDINGS RESTRICTION.

There shall be not more than one (1) principal dwelling structure and two (2) accessory structures on any Residential District lot. Multi-family dwellings shall be limited to not more than one Multi-family dwelling per lot unless approved as a Planned Unit Development. A variance may be granted for additional accessory structures on any Residential District lot greater than one-half (½) acre in size.

§ 155.723 FRONTAGE OF PUBLIC STREETS.

Each principal building shall front on a duly accepted public street which has been improved in accordance with village standards or on streets in the process of being improved in accordance with requirements of the Albany Subdivision Regulations.

§ 155.724 EXISTING LOTS OF RECORD IN RESIDENTIAL ZONES.

A single-family structure may be constructed on any lot in any residential district if the lot is less than the minimum area required for building lots in the residential district in which it is located; provided the following conditions exist or are met:

- (A) No structure shall be erected on any nonconforming lot if adjacent to the lot in question there exists vacant land in the same ownership which would create a conforming lot if said vacant land were combined with the lot deficient in area.
- (B) **SIDE YARD:** No structure shall be constructed on a lot containing less than the required area unless the owner can demonstrate that the structure will have a minimum side yard of ten percent of the lot width but in no case less than four feet on interior lots and 12 feet on the side yard adjacent to any street.
- (C) **FRONT/REAR YARDS:** No structure shall be built on any lot of less than the required area unless the minimum front and rear yards for lots in the residential zone where said lot is located are maintained.
- (D) Regardless of lot size, off-street parking shall be provided in accordance with the provisions set forth herewith in §155.766 of this code.

§ 155.725 TYPES OF LOTS.

The Albany Zoning Code contains regulations and controls intended to regulate development in the various districts. These regulations may be supplemented by other ordinances, resolutions, and utility codes.

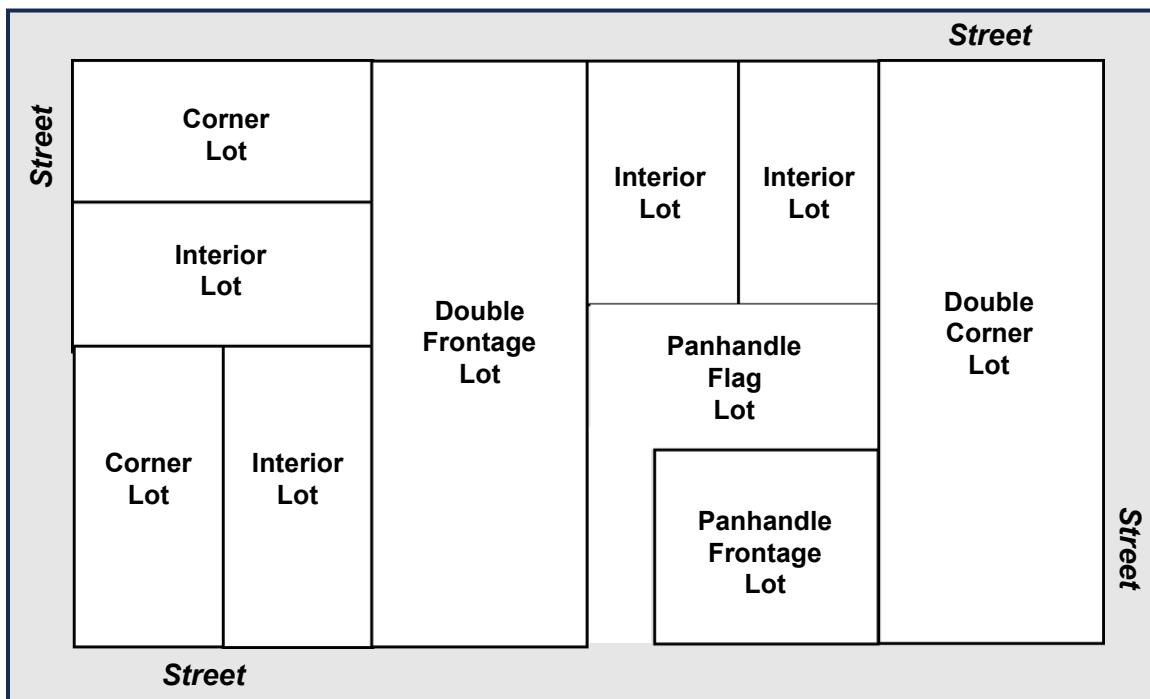
§ 155.726 THROUGH LOTS.

Where a single lot under individual ownership extends from a street to a street, the street with the most advantageous access to public services shall be deemed the street upon which the property fronts as determined by the Village Administrator. (Refer to TABLE 2 below).

§ 155.727 CORNER LOTS; TRAFFIC VISIBILITY.

In any Residential Zone on any corner lot, no fence, structure, or planting shall be erected or maintained within twenty (20) feet of the corner (the point of intersection of the street lot lines), so as to interfere with traffic visibility across the corner.

Chapter 155, Table 2, Types of Lots.



§ 155.728 PANHANDLE FLAG LOTS.

(A) Panhandle Flag Lot means a lot whose only frontage on a public street is through a narrow strip of land which is wide enough to accommodate a driveway, but too narrow to accommodate any structures. The narrow strip of land is referred to as the Panhandle and the balance of the lot is referred to as the Flag.

(B) Panhandle Flag lots shall be discouraged and only created upon determination that unique topographic features or other special physical conditions exist and shall be contingent on all of the following:

- (1) submission by the property owner of a Use Variance application to the Village Administrator.
- (2) granting of said Use Variance by the Board of Zoning Appeals.
 - Prior to acting on a Use Variance application the Board of Zoning Appeals shall hold a public hearing pursuant to A.V.C. Chapter 155 Article 8(F) at such time and upon such notice as the Board may designate.
- (3) completion of the Minor Subdivision (lot split) provisions of the Albany Subdivision Regulations §§ 154.54-56.

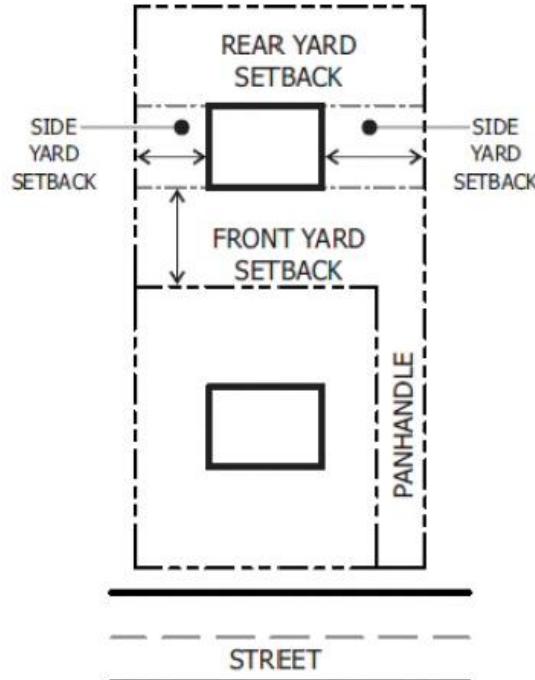
(C) Panhandle Flag lots shall;

- (1) only be used for construction of an R-1 single dwelling, separate and apart from the front lot.
- (2) not be used to avoid the construction of a street.
- (3) not be used for storage nor shall any structures be permitted in the Panhandle portion of the lot.
- (4) be required to have Municipal Water and Sanitary Sewer taps separate from the front lot.
- (5) be compatible with surrounding properties and land uses and shall not unreasonably or adversely impact surrounding properties.

(D) Panhandle Flag lots shall also be subject to the following regulations;

- (1) To be considered for conversion to a Panhandle Flag lot, the full lot shall be at least 64 feet but not more than 120 feet wide, and at least 340 feet but not more than 500 feet deep.
- (2) There shall be no more than one (1) Flag lot behind any Frontage lot.
- (3) Ownership of the narrow strip of land known and referred to as the Panhandle shall in all cases be assigned to the owner of the Flag lot.
- (4) The Panhandle shall have a minimum continuous width of eighteen (18) feet along the entire width of the panhandle area not to exceed 400 feet in length.
- (5) A Frontage lot and Flag lot shall each be required to meet the appropriate lot coverage and area regulations as set forth in Albany Village Code provided however that a parcel which is located within the B-1 District on Washington Road shall be subject to Minimum Lot Frontage requirements of 45 feet for the Frontage lot and 60 feet for the Flag lot.
- (6) The Panhandle shall not be included in the area of either lot for the purposes of determining compliance with the required lot coverage and area regulations for the district.
- (7) The Flag lot Front Yard setback shall be established from the front property line that parallels the roadway from which the panhandle lot has access as shown in the illustration.

(Ord. 2024-03, Passed 4/2/2025)



Flag lot Front Yard setback line

§ 155.729 MINIMUM LOT SIZE AND AREA REGULATIONS.

The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required in that zone. All buildings shall be situated on a parcel of property which meets the minimum size, frontage, and setback requirements as set forth in Table 3 below within the zoning district wherein the property is located.

Chapter 155, Table 3, Lot Size & Area Regulations.

Use Type and District		Minimum Lot Area (Square Feet)	Minimum Lot Width (feet)	Maximum Percentage of Lot Coverage	Maximum Structure Height (feet)	Minimum Front Setback (feet)	Minimum Side Setback (feet)	Minimum Rear Setback (feet)
*One-Family Residential	R-1	8,000	*70	40%	35	30	10	30
	R-2	8,000	70	40%	35	30	10	30
	R-3	8,000	70	40%	35	30	10	30
*Two-Family Residential	R-2	9,000	80	50%	35	25	10	30
	R-3	9,000	80	50%	35	25	10	30
Multi-Family Residential	R-3							
	1-3 Units	10,500	100	60%	35	35	**15	30
		<i>Note 1</i>	100	60%	40	35	****15	30
Neighborhood Business	B-1							
Historic Downtown Area (Note 4)	N/A	N/A	90%	<i>Note 3</i>	N/A	N/A	30	
	<i>Note 2</i>	100	60%	35	25	***10	30	
General Business	B-2	20,000	100	70%	40	30	***10	30
Rural District	RD	5 acres	N/A	N/A	40	35	15	30
Campus-Institutional	C-I	3 Acres	N/A	N/A	N/A	N/A	N/A	N/A

* Panhandle Lots: Front lot 45 ft. Flag Lot 60 ft.

**Maximum two (2) stories of actual living space above ground (attics are not counted as living space).

***Maximum three (3) stories of actual living space above ground (attics are not counted as living space).

****25-foot setback shall be required and not used for any other purpose on the side abutting any R-1 District.

Note 1: 10,500 plus 3,500 square feet for each dwelling unit over three (3).

Note 2: 5,000 Sq. Ft. except as defined in §155.206(E) Business Use in an R-3 District.

Note 3: Minimum building height must be at least 75% of tallest adjacent structure height.

Note 4: Historic Downtown Area shall include the following:

- Washington Road from Lee Street south to State Street, and
- West Clinton Street from Washington Road west to Center Street.

- No building shall be erected, reconstructed, or structurally altered to exceed the height limit hereinafter designated for the zone district in which such building is located except that a building may be constructed to conform with the height of existing buildings in the downtown Historic district which is generally the area of Washington Road between State Street and Clinton Street.
- Height limitations shall not apply to open amusement uses, church spires, belfries, cupolas and domes, monuments, water towers, chimneys, smokestacks, flag poles, masts, and aerials; or to parapet walls except that no parapet wall may extend more than four (4) feet above the limiting height of the building.
- Land coverage by principal and accessory buildings or structures on each lot shall not be greater than is permitted in the zone where such principal and accessory buildings are located.

(Ord. 2024-29, Passed 11/6/2024)

§ 155.730 MINIMUM FLOOR AREA.

All residential units shall be subject to this section and are required to meet the minimum interior floor space as set forth in Table 4 below.

➢ *Minimum interior square foot requirements EXCLUDE garages and unfinished basements.*

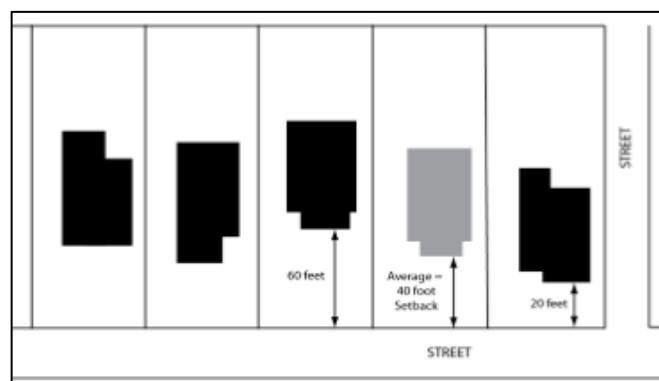
Chapter 155, Table 4, Minimum Interior Floor area.

Detached Residential Structure	Minimum Square Ft.
One family residential dwelling	900 square feet
Two family residential dwelling	900 square feet (each unit)
Three family residential dwelling	800 square feet (each unit)
Apartments, Townhouses, Condominiums	Minimum Square Ft.
Studio Apartment	450 square feet
One Bedroom Apartment	600 square feet
Two Bedroom Apartment	750 square feet
Three or more Bedroom Apartment	900 square feet

(RES. 2018-25, Passed 10-23-2018)

§ 155.731 LOT-FRONTAGE REQUIREMENTS.

- (A) The lot frontage of any lot shall be measured along the edge of the street or roadway.
- (B) For presently existing streets, the front lot line setback shall be established from the average front setback line of the existing buildings of similar use, within 500 feet on each side of the proposed construction. In case of doubt, the Planning Commission is authorized to determine the front setback line. In front of this line there shall be neither principal nor accessory buildings, except open porches and stoops.
- (C) For presently existing lots, no house, garage, or other building shall be placed or constructed on any lot or parcel of land within the village within a distance from the property lines thereof of less than ten percent (10%) of the total frontage width.
- (D) All side lot line setbacks shall be free from primary and accessory structures.
- (E) On a corner lot, the principal building and all accessory buildings shall be required to meet the front setback requirements of the district from all street right-of-way lines, provided however, that this requirement shall not require the buildable width of a lot of record to be reduced to less than forty (40) feet for the purposes of a principal building. Accessory buildings shall comply with the front yard requirement in all cases.
- (F) Multi-family dwellings shall be considered as one building for the purpose of determining front, side, and rear setback requirements. The entire group as a unit shall require one front, one rear, and two side yards as specified for principal buildings in the appropriate district. Each individual building shall meet all yard requirements for the appropriate district as if it were on an individual lot.



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(C) ADDITIONAL PROVISIONS

§ 155.751 ACCESSORY BUILDINGS OR STRUCTURES

Accessory buildings or structures shall be permitted in all districts and, except as provided in this section, shall require issuance of a *Zoning Certificate* prior to placement, or construction on the property in accordance with the provisions of this chapter. For the purposes of this section, if the accessory building or structure is 200 sq. ft. or larger, both a Building Permit and a Zoning Certificate is required from the Village however a Building Permit shall not be required for a Temporary carport.

Any accessory building or structure less than 200 sq. ft in area, not permanently attached to the ground, is not considered a structure, and shall not require a Zoning Certificate, however only one (1) such accessory building or structure may be placed on a lot without a zoning certificate.

(RES. 2019-24, Passed 8-27-2019)

Any additional buildings or structures shall be considered accessory buildings or structures as defined in § 155.999 of this chapter and subject to the provisions of this section.

The following conditions shall also apply to all Accessory Buildings or Structures;

- (A) An accessory building which is physically attached to the principal building shall be deemed a part thereof for all purposes of this chapter;
- (B) In any Residential Zone, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building except for continuous and contiguous lots under common ownership;
- (C) In any Residential District, the total square footage of all unattached accessory buildings and structures shall not exceed 3% of the lot area;
- (D) The maximum height of an accessory detached garage shall be 15 feet in overall height;
- (E) The maximum height of any other accessory building or structure shall be 10 feet in overall height;
- (F) Accessory buildings or structures shall be located behind the main structure and shall not be permitted within any required minimum front yard or side yard in any zone except a storage building equal to or less than fifty (50) square feet in area, not permanently attached to the ground, may be located not less than three (3) feet from any side and/or rear property lines.
- (G) Accessory buildings or structures located on a corner or double frontage lot shall not be permitted to project beyond the minimum front yard depth facing the adjacent streets;
- (H) Prohibited Accessory Buildings or Structures: Quonset huts, temporary garages, portable containers, converted storage or shipping containers, and semi-tractor trailers used for storage (with or without wheels) are prohibited in all Residential and B-1 Business districts.

(Ord. 2021-04, Passed 2-17-2021)

§ 155.752 MOBILE HOMES.

- (A) Mobile Homes shall only be moved onto existing vacant mobile home spaces after obtaining a Zoning Certificate and shall be no more than ten (10) years old at the time of being moved into and located in the village.

Statutory reference: Albany Zoning Code § 155.721

- (B) All mobile homes must have underpinning installed within 45 days of being brought into the village.
- (C) A *Zoning Variance*, subject to the conditions as set forth in this code, may be applied for following the rules prescribed herein for any Mobile Home which fails to meet the required standards within but which nevertheless is in such an excellent condition as to accomplish the purpose of this code, namely, to assure that housing in the village is maintained in a healthful, safe, clean, workmanlike, attractive, durable, valuable, and structurally sound condition, so as to be neither an impediment nor a detriment to the property values of adjacent and neighboring properties in the village, but rather to contribute to the maintenance and the natural appreciation of said property value.

- (D) A Manufactured Home not used as a dwelling shall not be permitted to remain on the lot.

§ 155.753 PRIVATE SWIMMING POOLS

A single, outdoor, in-ground, swimming pool of 500 gallons or more per dwelling unit is permitted as an accessory use to a residential structure provided that such swimming pool is for the private use of the residents of the dwelling unit or for their guests and provided that the pool does not occupy more than ten (10) percent of the lot area. Said pool shall be enclosed by a wall or fence with access provided from a controlled point which shall serve to exclude unauthorized persons from entrance into the pool area. The fence or wall; (9-6-2011A)

- Shall be no less than four (4) feet in height above ground and water level,
- Shall have no more than two (2) inches of bottom clearance,
- Shall be securely gated at a height no less than the height of the fence or wall,
- Shall use a minimum of 11.5-gauge wire if chain link or wire type material is used,
- Shall have no greater than a four (4) inch space between vertical panels.

- (A) A pool cover may be used in place of a wall or fence providing that The American Society for Testing and Materials (ASTM) F1346-91 standards (1996) requiring that a pool cover be able to hold a minimum of 485 pounds per square foot in order to qualify as a safety pool cover are met.
- (B) No pool shall be located directly under a power or utility service line or directly over top of any buried utility device or easement.
- (C) No pool shall violate any setback requirements as established for a permanent structure or building as set forth in Lot Coverage and Area Requirements, *TABLE 2*, of this code.
- (D) An above-ground swimming pool of 500 gallons or more shall be equipped with a gated deck fence and/or a ladder which is capable of being secured in the UP position or removed when not in use. In no case shall the degree of protection be less than what is required as set forth above.

§ 155.754 GOVERNMENT PROPERTY EXEMPTIONS.

The administrative authority of all governmental units (including city, township, county, state, and federal units) must make a reasonable attempt to ensure that their buildings and grounds conform to the regulations of the zoning code. When such authorities find, they cannot conform to these regulations, they shall inform the village in writing, outlining the nature of and reasons for such nonconformance.

CROSS REFERENCE: § 155.107

§ 155.755 UNSAFE BUILDINGS.

Nothing in this Code shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by proper authority.

§ 155.756 CONSTRUCTION PERIOD.

- (A) Construction of a new building, repair, alteration, or addition to an existing building shall commence within one (1) year from the date of issuance of the Zoning Certificate. Failure to start construction within this one-year period shall void the Zoning Certificate.
- (B) Construction of a new building, repair, alteration, or addition to an existing building shall be completed within two (2) years from the date of issuance of the Zoning Certificate after which a new Zoning Certificate must be obtained.

§ 155.757 TRANSITIONAL USES.

In any R-1 or R-2 District, transitional uses shall be permitted on a lot, the side lot line of which adjoins either directly or across an alley any "B-1 or B-2" District. The permitted transitional use, including area and yard requirements, for any such lot in an R-1 District, shall be any use permitted in the R-2 District; and the permitted use for any such lot in an R-2 District shall be any use permitted in the R-3 District. Any transitional use so authorized shall not extend more than 50 feet from the side lot line of the lot abutting the zoning boundary line.

§ 155.758 CAMPER, MOTOR HOME, AND RECREATIONAL VEHICLE.

(A) Definitions.

Habitation means to "use for living space" and shall include, but not be limited to, acts of sleeping, cooking, bathing, occupying as a dwelling, or any stay within the recreational vehicle not directly related to its driving and includes evidence of a person entering and exiting the vehicle; connection of the vehicle to sewer, water, or electrical systems; illumination of the interior of the vehicle; window masking; expanded bays "pop-outs."

"Camper" "Motor home" and "Recreational Vehicle" shall include the following:

Camper means a portable living quarters including a living quarters mounted on wheels and designed for travel, recreation, and vacation use;

Folding tent trailer means a canvas folding structure commonly known as a "pop-up camper" mounted on wheels and designed for travel, recreational and vacation use;

House car means a motor vehicle used as a living quarters;

Motor home means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle that has no fifth wheel, is designed for travel, recreational, and vacation use and is constructed with permanently installed facilities for cold-storage, cooking, sleeping, consuming of food, and occupancy thereof for human habitation;

Pickup camper means a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation use;

Park trailer means a vehicle that is commonly known as a park model recreational vehicle, meets the American National Standard Institute Standard AI 10.5 (1988) for park trailers, is built in a single chassis, has a gross trailer area of four hundred (400) square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances and is constructed with permanently installed facilities for cold-storage, cooking, sleeping, consuming of food, and occupancy thereof for human habitation;

Recreational vehicle (RV) means a vehicle that is:

- (A) Built on a single chassis;
- (B) 400 square feet or less when measured at the largest horizontal projection;
- (C) Designed to be self-propelled or permanently towable by a light duty truck; and
- (D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for travel, recreational and vacation use.

Trailer coach means a vehicle designed for human habitation or human occupancy for recreational, industrial, professional or commercial purposes, for carrying property on its own structure or for being drawn by a motor vehicle and includes a park trailer, recreational vehicle, trailer coach and travel trailer;

Travel trailer means a non-self-propelled recreational vehicle, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation use, and permanently identified "travel trailer" by the manufacturer. Travel trailer includes a tent-type fold-out camping trailer;

Truck camper means a non-self-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck Camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(B) **Parking of a Camper, Motor Home, or Recreational Vehicle.** Any vehicle defined in Subsection (A) may be parked or stored outdoors within any zoning district subject to the regulations contained herein.

- 1) No such vehicle shall be used for habitation including living, housekeeping, the conduct of business, or similar purposes, including the harboring of animals or pets, within any zoning district subject to the following exceptions:
 - a. Overnight stays for non-paying guests of the occupants of any legally established permanent dwelling may be permitted not more than three (3) times per calendar year not to exceed fourteen (14) consecutive days each time within any zoning district.
 - b. a trailer coach may be used as a temporary accessory building during the construction of a principal building after a Zoning Certificate is issued by the Zoning Administrator.
- 2) No such vehicle may have connections to municipal water or sanitary sewer except:
 - a. Direct water and sanitary sewer connections may be made after the issuance of a *Temporary Connection Permit* by the Village and after payment of a fifty-dollar (\$50.00) fee. Each permit shall be valid for a period of fourteen (14) consecutive days and no property shall be issued more than three (3) such permits within any one (1) calendar year.
 - b. Any sewer connection shall be inspected and approved by the Village and shall be made only by using a proper hose adaptor designed to prevent sewer gas from escaping when connected and shall be provided with a plug when not in use.
- 3) No such vehicle shall operate a generator within any zoning district from dusk to dawn.
- 4) A camper, motor home, or recreational vehicle parked outside of a garage or enclosed structure within any zoning district shall be licensed pursuant to State law.
- 5) No more than one such vehicle per premise within any zoning district may be so parked.
- 6) No person, being the owner and/or occupant of or having possession of real property within any zoning district of the Village shall permit a camper, motor home, or recreational vehicle to be parked or stored thereon in violation of any of the regulations set forth in this section.

(C) **Penalties.** Whoever violates any provision of this section shall be subject to the Penalties and Remedies prescribed in Article 9 of this Chapter.

(*Ord. 2024-21*)

§ 155.759 NONCONFORMING USES AND BUILDINGS.

Any nonconforming use that legally exists at the time of the adoption of this code or any amendment thereto may be continued except as otherwise specified within this Section.

- (A) A nonconforming use may not be changed except to a more conforming use, and once changed to a more conforming use it may not thereafter be changed to a less conforming use.
- (B) Any non-conforming use that is discontinued for six (6) months or more shall be deemed to be expired and any further use shall be in conformity with the requirements of the zoning district.
- (C) In the event that any building or structure with a nonconforming use is damaged, destroyed or falls into disrepair to the extent of **more** than 65 percent of the county auditor's true value, exclusive of the foundation, it shall not be rebuilt, restored, or reoccupied for any use unless it conforms to all regulations of the zoning code.
- (D) In the event that any building or structure with a nonconforming use is damaged, destroyed or falls into disrepair to the extent of 65 percent or **less** of the county auditor's true value, exclusive of foundation, no repairs or rebuilding shall be permitted except in conformity with all applicable regulations of the zoning code and the following conditions:
 - A zoning permit pertaining to such restoration shall be applied for and issued within one (1) year of such destruction. The rebuilding shall be completed within one (1) year thereafter. An extension of time may be granted by the Zoning Administrator.

- Such restoration shall not cause a new nonconformity, nor shall it increase the degree of nonconformance or noncompliance existing prior to such damage or destruction.
- On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-load bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased.

(E) Any newly created lot size requirement shall not apply to a lot which was separately owned or to a numbered lot in a subdivision which was duly recorded prior to the effective date of the ordinance establishing such requirement, except that if such lot is contiguous to another lot or lots owned by the same person, all lots owned by the same person shall be merged and re-subdivided so as to conform to the requirements of the zoning district.

§ 155.760 OUTDOOR LIGHTING STANDARDS.

(A) Purpose. The purpose of this outdoor lighting section is to regulate outdoor lighting in order to reduce or prevent light pollution, ensure the safety of pedestrians and properties, and to minimize lighting impacts on surrounding properties while minimizing light pollution and the negative impacts of excessive glare.

(B) Scope. Site lighting shall be designed to provide illumination for specific uses on the site and shall not generate excessive glare or spillover onto abutting properties. Lighting shall be used to promote safe circulation by vehicles and pedestrians, security of persons and property, and accenting of landscaping and building features.

(C) 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 feature of a lot.
- (2) Lighting plans shall be submitted for approval with all site plans for development in all zoning districts except R-1 and R-2 Districts.

(D) Residential Lighting.

- (1) Floodlights installed above grade on residential properties, except when motion-sensor actuated, shall not be aimed out more than 45 degrees from straight down and shall be installed and aimed so as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway.
- (2) When a floodlight creates glare as viewed from an adjacent residential property, the floodlight shall be required to be re-aimed and/or fitted with a shielding device to block the view of the glare source from that property.
- (3) "Barn lights," aka "dusk-to-dawn lights," when a source of glare as viewed from an adjacent residential use, shall not be permitted unless effectively shielded as viewed from the adjacent property.

(E) Non-residential Lighting.

- (1) Outdoor lighting fixtures shall be direct cut-off fixtures, designed to prevent light spill or trespass beyond the boundaries of the property where the fixture is located.
- (2) All lighting shall be controlled in such a way as to not project into the sky.
- (3) All outdoor lighting for non-residential uses shall be screened, or shielded, so that adjacent residential lots are not impacted by illumination and shall be located in such a way as to not shine directly into an adjacent residential dwelling unit, regardless of the applicable zoning district.
- (4) No outdoor lighting shall be of such an intensity or color distortion as to cause glare or to impair the vision of drivers or pedestrians.
- (5) All forms of flashing, rotating, or moving lights shall be prohibited.

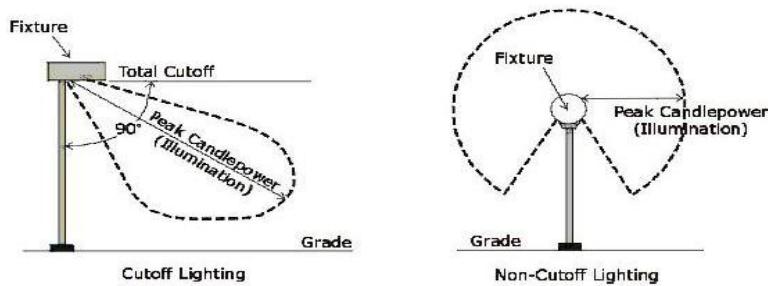


Figure 155.769:1 Examples of cutoff lighting types. (for illustration purposes only)

(F) Mounting heights.

Variation of heights greater than as specified shall be subject to approval by the Albany Planning Commission based upon a lighting plan designed by an architect or engineer citing reasons for variations and methods used to comply with this chapter.

- (1) All outdoor lighting shall be designed, located, and mounted at heights not greater than twelve (12) feet above grade for non-cutoff lights and twenty (20) feet above grade for cutoff lights.
- (2) The maximum height of a light fixture, if mounted on a pole or on a structure other than the principal building, is twenty-five (25) feet.
- (3) Lighting may be mounted to a building façade only at entrances, loading/service locations, or for the purpose of accent lighting. In no case shall a light fixture mounted on a structure be mounted at a height where the fixture will exceed the height of the roofline.
- (4) The placement of light poles within raised curb planter areas or landscaped islands is encouraged, but conflicts with parking lot trees that can obscure the lighting shall be avoided through alternative lighting locations.

(Ord. 2023-40, Passed 10/04/2023)

§ 155.761 FENCES, WALLS, TERRACES, AND STOOPS.

Unless specifically noted, the provisions of this chapter shall not apply to fences, terraces, or walls less than six feet in height above the average natural grade, nor to terraces, steps, unroofed stoops not over three feet high above the level of the floor of the ground story. However, no fence or wall, regardless of height, shall extend beyond the building front setback line in accordance with these zoning standards and regulations.

§ 155.762 HOME OCCUPATION.

The standards in this section cannot be modified through Conditional Use approval

- (A) A home occupation shall only be conducted in the residence of the person engaged in the home occupation.
- (B) A home occupation shall be restricted to lawfully built fully enclosed structures and shall not be conducted in a manner as to give the outward appearance of a business.
- (C) A home occupation shall not create a public or private nuisance, including, but not limited to, noise, odors, vibration, fumes, smoke, fire hazard, electrical, electronic, or electromagnetic interference.
- (D) A home occupation shall be limited to the provision of services and shall not include on-site sales.
- (E) Parking of customer's or client's vehicles shall not create a hazard or excessive congestion.
- (F) Outside storage or display of materials, equipment, or merchandise used in or produced in connection with the home occupation is prohibited.
- (G) Non-Resident Persons Engaged in Home Occupation.
 - Not more than one non-resident person engaged in the home occupation shall work at the subject property. Additional persons may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the subject property.
 - The subject property shall not be used as a gathering place for non-resident persons who work off-site from the home occupation.

TABLE 5 and *TABLE 6* below list the most common permitted and non-permitted Home Occupations, unless otherwise allowed as a conditional use.

Chapter 155, Table 5, Permitted Home Occupations.

Artists and sculptors;
Authors and composers
Dressmakers, seamstresses, tailors
Home crafts, such as model making, rug weaving, lapidary work and cabinet making
Office facility of a minister, rabbi, or priest
Office facility of a salesperson, sales representative, or manufacturer's representative
Office facility of an architect, artist, broker, dentist, physician, engineer
Office facility of an insurance agent, land surveyor, lawyer, or real estate agent
Bakers and caterers where food is prepared, but not served on site
Computer operations where the residents can conduct their work at home
All other home occupations listed as permitted by the Planning Commission per the "conditional use" process

Chapter 155, Table 6, Home Occupations Not Permitted.

Antique shop, unless specifically allowed as a conditional use
Barbershop or beauty shop
Funeral chapel or funeral home
Gift shop
Medical or dental clinic or hospital
Animal hospitals
Dance schools
Nursery schools unless specifically allowed as a conditional use
Private clubs
Automotive sales or repair shops
Repair shops or service establishments except the repair of electrical appliances, typewriters, cameras, computers, or other similar small items

§ 155.763 SIGNS PERMITTED IN RESIDENTIAL DISTRICTS.

Commercial signs are hereby determined to be a non-residential use of land and no commercial signs except as expressly hereinafter permitted in this section shall be allowed in the R-1 or R-2 Residential Districts within this village. In an R-3 District they shall be considered Accessory to a Conditional Use.

- (A) One sign per parcel advertising the sale, rental or lease of real estate provided the signs are located on the premises that are the subject of the sale, rental, or lease, unlighted and no larger than four square feet.
- (B) No signs permitted in an R-1 District for any reason except signs of no more than two square feet identifying the resident's name or house number.
- (C) Signs identifying a group home or apartment building in R-2 District and of no more than eight square feet.
- (D) Signs identifying a complex or subdivision which does not exceed more than ten square feet.
- (E) Signs for home occupations shall not be permitted.
- (F) Political signs provided they are removed no later than ten days after the election at which the candidate or issue appears on the ballot.
- (G) In residential districts, garage, basement, porch, or other casual sale signs provided no more than two (2) such sales are held per twelve (12) month period and the signs are present for no more than three (3) days each time.

Statutory reference:

Albany Zoning Code § 155.704(B)

- (H) Real estate open house or directional signs provided they are displayed for no more than three days a week for any property.
- (I) Construction project identification signs denoting the owner or developer, the architect, engineer or contractor and information concerning the project located on the premises where the construction is taking place and no larger than forty (40) square feet.
- (J) Temporary banners or signs announcing educational, religious, or public events no larger than twenty (20) square feet and located on the premises where the event is to occur.

§ 155.764 SIGNS PERMITTED IN BUSINESS DISTRICTS.

In any Business District, each establishment shall be allowed the following signs for advertising on premises activities:

- (A) One wall sign with a maximum area of forty (40) sq. ft. for each one thousand (1,000) sq. ft. of floor area open to the public, but in no event larger than three hundred (300) sq. ft.
- (B) In lieu of one wall sign stated in division (a) above, one projecting sign with a maximum area of twenty (20) sq. ft. per side for each one thousand (1,000) sq. ft. of area open to the public but in no event larger than one hundred fifty (150) sq. ft. per side.
- (C) One pole or pylon sign with a maximum area of one hundred fifty (150) sq. ft. per side. Accessory signs such as those denoting brand names of articles sold or credit cards accepted not to exceed twenty (20) sq. ft. per business.
- (D) In any B-1 or B-2 District, no pole sign shall be higher than thirty (30) feet from the ground.
- (E) No pole or pylon sign shall be located closer than twenty (20) feet of any adjoining property line or closer than ten (10) feet from the public right-of-way.
- (F) No sign shall be allowed to overhang a public street nor be located within six (6) feet horizontally or twelve (12) feet vertically of any electrical lines or appurtenance.

§ 155.765 ENCROACHING DOORS.

Every garage building or portion of a main building used for garage purposes shall be equipped so that the doors when open or being opened will not project beyond any lot line of the lot on which such building is located; and when said doors open to any alley the wall or portion thereof.

§ 155.766 PARKING REGULATIONS.

- (A) Any building, structure, or use of land, when erected or enlarged, shall provide for off-street parking spaces for automobiles in accordance with the following provisions of this Chapter. A parking plan shall be required for all uses. The parking plan shall be submitted to the Village as part of the site plan review. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, boundary walls, fences, and a screening plan, as appropriate.
- (B) Whenever a building or use constructed or established after the effective date of this chapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (C) Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) percent or more in floor area or in the area used, the entirety of such building or use shall then comply with the parking requirements set forth herein.
- (D) The number of required off-street parking spaces shall be as has been established in *Albany Subdivision Regulations Section 154.105 TABLE 7*

§ 155.767 PARKING SPACE DIMENSIONS.

For the purpose of this Zoning Code, the following parking space requirements shall apply:

- (A) Each off-street parking space shall measure nine (9) feet in width by eighteen (18) feet in length.
- (B) Parking spaces for the physically handicapped shall measure twelve (12) feet in width. For every 25 spaces, there must be at least one (1) handicapped accessible space, labeled, and signed as such.
- (C) All dimensions shall be exclusive of driveways, aisles, and other circulation areas.

Statutory reference: *Albany Subdivision Regulations Section 154.105 TABLE 7*

§ 155.768 KEEPING OF CHICKENS.

The raising and keeping of chickens and their associated structures on a non-commercial basis in a Residential 1 (R1) or in a Rural (RD) District is a Principal Permitted use if certain conditions to ensure that the raising and keeping of chickens are conducted in a way as to not adversely affect the safety and general welfare of the citizens of the Village are met.

- (A) A Zoning Permit shall be applied for and granted in advance of the housing of chickens.
- (B) No more than ten (10) Hens are permitted on any one (1) property.
- (C) Roosters are expressly forbidden.
- (D) The on-site slaughtering of Hens is prohibited.
- (E) No chicken shall be permitted to roam outside the coop or enclosed area.
- (F) Free Ranging is prohibited.
- (G) Odors shall not be perceptible at the lot line.
- (H) Noise shall not be perceptible at lot lines to the extent that it results in a public nuisance or is in violation of the municipal noise ordinance.
- (I) Chickens shall be confined within a secure outdoor enclosed area to prevent entry by predators or the escape of chickens which shall include a covered and ventilated chicken coop that is in conformance to all setback requirements for Accessory Buildings.

- (J) The coop and enclosed area shall be maintained in a neat and sanitary condition with no noxious odors, unsanitary conditions, or other nuisances.
- (K) Chicken feed shall be stored and dispensed in rodent-proof and predator-proof containers.
- (L) All stored manure shall be placed within a fully enclosed container.
- (M) Chickens shall be kept for Non-Commercial purposes only however the incidental sale of eggs is not prohibited and shall be regulated as a typical roadside vegetable stand § 155.403(B).
- (N) Enforcement; The village may periodically inspect the facility, upon reasonable notice, to ensure that all conditions of the permit are continuously met.
- (O) All legitimate complaints lodged will be fully documented and investigated. Excessive complaints can result in the revocation of the Zoning Certificate and other penalties as provided for in this code.

(Res. 2018-17, Passed 6-21-2018) (Ord 2023-56, Passed 12/20/2023)

ARTICLE 8: ADMINISTRATION

(Ord. 2022-29, Passed 7/20/2022)

(A) BOARD of ZONING APPEALS (BZA)

§ 155.801 ESTABLISHMENT.

The Board of Zoning Appeals for the Village is hereby created. The BZA shall consist of five members who are electors of the Village appointed by the mayor, subject to confirmation by the Village Council for staggered terms of three years. Each member shall serve until his successor is appointed and qualified. If for any reason a member of the Board of Zoning Appeals becomes unable to fulfill his or her duties before the expiration of his or her term, the Mayor shall fill any such vacancy for the unexpired term.

Statutory reference:

ORC § 713.11

§ 155.802 REMOVAL.

Members of the Board shall be removable for nonperformance of duty, misconduct in office, or other cause, by Council, upon written charges having been filed with Council and served upon the member so charged at least ten days prior to the hearing, either personally or by registered mail, or by leaving the same at this usual place of residence. After a public hearing has been held regarding such charges the member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the mayor and shall be for the unexpired term.

§ 155.803 ORGANIZATION.

- (A) The Board of Zoning Appeals shall organize, elect a Chairman, and adopt rules in accordance with the provisions of this Zoning Code. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths and the Board may compel the attendance of witnesses. All meetings of the Board shall be open to the public.
- (B) The Board shall appoint the Albany Fiscal Officer as their Clerk who shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of Council and shall be a public record.
- (C) Three members of the Board shall constitute a quorum. The Board shall act by resolution, and the concurring vote of three members of the Board shall be necessary to reverse an order or determination of the Zoning Administrator, Planning Commission, or other administrative official or to decide in favor of any applicant in any matter over which the Board has original jurisdiction under this Zoning Code or to grant any variance from the requirements stipulated in this Zoning Code.

§ 155.804 POWERS OF THE BZA.

The BZA may exercise only those powers expressly and specifically granted to it by the village council in accordance with the Ohio Revised Code. It has no authority to take any action with respect to any village or other public right-of-way. The Board of Zoning Appeals shall have the power to

- (A) Hear and decide appeals, including Zoning Certificate appeals, filed as hereinbefore provided, for relief from an alleged hardship or where it is alleged by the appellant that there is error in any order, requirement, decision, grant, or refusal made by the Zoning Administrator, Planning Commission, or other administrative official in the interpretation of the provisions of this Zoning Code. Those who may appeal to the BZA for relief as set forth in this section shall include any applicant seeking relief under this zoning code from a decision of the Zoning Administrator, or any property owner of land adjacent to property granted some relief under this zoning code by the Zoning Administrator, or any property

Board of Zoning Appeals (BZA) continued

owner directly or substantially affected or damaged by a decision of the Zoning Administrator, or the Mayor, may file an appeal.

(B) Hear and decide all applications for a *Conditional Use Permit* as set forth in this code.

(C) Hear and decide all applications for a *Zoning Variance* as set forth in this code.

All Applications within this code for an Administrative Appeal, Conditional Use Permit or Variance shall be fully completed, using forms provided by the Village, as set forth prior to any considerations being taken by the BZA.

(RES. 2020-06), Passed 03-04-2020)

§ 155.805 HEARINGS AND NOTIFICATION.

The BZA shall comply with Chapter 155 Article 8(F) before rendering findings or decisions in any matter brought before it.

§ 155.806 DECISIONS OF THE BZA.

The BZA shall decide all applications and appeals within 30 days after the final hearing thereon. Upon approval of the minutes of the final hearing, a written copy of its decision shall be transmitted to and be binding upon both the applicant and the Zoning Administrator and shall be incorporated in the permit, whenever a permit is authorized by the BZA.

§ 155.807 PAYMENT OF FEES. (ADMINISTRATIVE APPEAL)

Village Council has established a fee of One Hundred Dollars (\$100.00) that is to be deposited with each application to the BZA for an Administrative Appeal.

§ 155.808 APPEAL TO THE COURT.

Those aggrieved by the finding of the Board of Zoning Appeals and subsequent action may appeal such decision to the Athens County Court of Common Pleas, as provided in ORC § 2506.01. Such appeal petition shall be presented to the court within 30 days after the day upon which written notification of the BZA's decision is transmitted to the applicant or appellant.

(B) ZONING CERTIFICATE

§ 155.821 PURPOSE.

A Zoning Certificate ensures that property improvements are consistent with the Village's Zoning Code to promote the health, safety, morals, comfort, or general welfare; to conserve and protect property and property values; to secure the most appropriate use of land; and to facilitate adequate but economical provision of public improvements.

§ 155.822 ZONING CERTIFICATE REQUIRED.

It shall be unlawful for an owner to use or to permit the use of any structure, building or land or part thereof, hereafter created, erected, changed, converted, or enlarged, wholly or partly, until a zoning certificate has been issued by the Zoning Administrator.

Unless exempted by this Code, a zoning certificate shall be required before:

- (A) Locating, erecting, construction, reconstructing, altering, or moving any building/structure;
- (B) Occupying or using land or a building, or changing the use of land or of a building, in whole or in part, for a different use;
- (C) Changing a nonconforming use to a different use.

No permit for excavation, construction or reconstruction shall be issued by the Zoning Administrator unless the plans, specifications and the intended use conform to the provisions of this chapter.

A zoning certificate issued for the construction of a new building, or the alteration of an existing building shall be void unless construction be commenced within one (1) year after date of issuance and unless construction be completed within two (2) years after date of issuance.

§ 155.823 PROCEDURE FOR ZONING CERTIFICATE.

The Zoning Administrator shall act upon all applications on which he is authorized to act by the provisions of this chapter within ten (10) days after these are filed in full compliance with all the applicable requirements as specified in this code. He shall either issue a Zoning Certificate within the ten (10) days or shall notify the applicant in writing of his refusal of such permit and the reasons therefor. Failure to so notify the applicant in case of such refusal within the ten (10) days shall entitle the applicant to submit his request to the Board of Zoning Appeals.

Two copies of an application provided by the Village for a Zoning Certificate shall be signed by the owner of the land or structure for which the certificate is sought, or by his or her agent, attesting to the truth and exactness of all information supplied in the application.

The application shall also contain the following additional information as applicable:

- (A) Plans in duplicate drawn to scale showing the actual dimensions and shape of the lot to be built upon; the exact dimensions and locations of existing buildings on the lot, if any, and the location and dimension of the proposed building and/or alteration.
- (B) Such other information as may be requested by the Zoning Administrator to determine conformity with this Zoning Code and to provide for the enforcement thereof.

ZONING CERTIFICATE *continued*

§ 155.824 PAYMENT OF FEES.

Chapter 155, Table 7, Zoning Certificate Fee Schedule.

Single family residence- up to and including 3 units	\$50.00
Additions to Single-family residential	\$25.00
Residential Accessory Uses (deck, shed, garage, storage building)	\$25.00
New Multi-family (4+ units), Commercial or Industrial structures and/or Accessory Buildings or additions	\$50.00 plus \$0.02 per square foot of area within the outside dimensions of the foundations, not to exceed \$600
Recreational, Institutional, Governmental and Miscellaneous structures and/or Accessory Buildings or additions	\$25 plus \$0.01 per square foot of area within the outside dimensions of the foundation, not to exceed \$125
Swimming Pool	\$25.00
Certificate of Use and Compliance	\$10.00

§ 155.825 APPEAL TO THE BZA.

Those aggrieved by the finding of the Zoning Administrator and subsequent action of the village may appeal such decision to the *Albany Board of Zoning Appeals* (BZA), as provided for in this code. Such appeal petition shall be presented to the Zoning Administrator within 30 days after the day upon which written notification of the Zoning Administrator's decision is mailed to the applicant or appellant.

§ 155.826 PENALTY.

Failure to obtain a Zoning Certificate shall be a violation of this chapter and punishable under § 155.904

(C) CONDITIONAL USE PERMIT

(RES. 2019-25, Passed 8-27-2019)

§ 155.841 PURPOSE.

A Conditional Use is a use permitted but only if special conditions are imposed upon that use to make that use less severe, unpleasant, or harmful to neighboring properties.

Conditional uses are uses of land specifically permitted within a zoning district but only with the approval of the Board of Zoning Appeals, following a review of the use and its potential impact on its surroundings and a review of additional conditions which may mitigate those impacts.

The intent of the procedure for authorizing a conditional use is to set forth the development standards and criteria for locating and developing a conditional use in accordance with the nature of the surrounding area, conditions of development and with regard to appropriate plans. These uses are generally consistent with the purpose of the zoning district in which they are located but, due to unique operational characteristics, may not be desirable or compatible in all locations within the district.

This chapter establishes the procedure for Conditional Use Permits and the general standards that must be met for all conditional uses. The Board of Zoning Appeals (BZA) may authorize those permitted conditional uses listed in the various zoning districts within the Zoning Code, (*TABLE 1*) including additional, more specific conditions, as prescribed.

§ 155.842 PROCEDURE FOR CONDITIONAL USE PERMIT.

(A) Authorization. Specifically listed conditional uses are provided within the zoning district regulations in recognition that such uses, although often desirable, will more intensely affect the surrounding area in which they are located than the principal permitted uses of such zoning district.

(B) Application for Conditional Use. Any person owning or having an interest in property may file an application, using a form provided by the Village, to use such property for one or more of the conditional uses listed in Article VII, Table One, Use Table, of the Albany Zoning Code, in the zoning district in which the property is situated. An application for conditional use permit shall be filed with the Zoning Administrator or his designee who shall review each with the applicant before transmitting the same to the BZA for further action. The applicant, or his agent, shall file a conditional use application on forms provided by the Village. The completed application form shall also be accompanied by one copy of a plot plan showing:

- (1) The boundaries and dimensions of the lot.
- (2) The size and location of existing and proposed improvements, including, but not limited to, buildings, structures, facilities, signs, lighting, accessways, walks, off-street parking spaces, loading berths and landscaping.
- (3) The proposed use of all parts of the lot and improvements.
- (4) The relationship of the conditional use requested to the standards set by this Zoning Code.

(C) Public Hearing The BZA shall select a time and place for the public hearing on a conditional use application. Before conducting the public hearing required in this section, the BZA shall file notice of such hearing as set forth in A.V.C. Chapter 155, Article 8(F), Public Hearings.

(D) Standards for Conditional Use. The Board shall not grant a conditional use unless it can, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, that support conclusions that:

- (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, or general welfare;

CONDITIONAL USE PERMIT continued

- (2) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or will not substantially diminish and impair property value within the neighborhood;
- (3) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
- (4) Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
- (5) Adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets; and
- (6) The conditional use will be located in a district where such use is permitted and all requirements set forth in this Zoning Code applicable to such conditional use will be met.

(E) Additional Conditions. In granting a conditional use the BZA may impose additional conditions upon the premises benefited by the conditional use as may be necessary to comply with the standards set forth in subsection (d) hereof to reduce or minimize potential injurious effects of such conditional use upon neighboring properties, and to carry out the general purpose and intent of this Zoning Code.

(F) Decision on Conditional Use. The concurring vote of at least three (3) members of the BZA in attendance at the public hearing shall be necessary to grant a conditional use. The Board shall render a written decision containing relevant findings of fact without unreasonable delay after the close of the hearing, and in all cases, within thirty (30) days after the close of the hearing.

- (1) In cases where the board concurs with the written recommendations and findings of the Zoning Administrator or his designee, such written recommendations and findings shall constitute the written decision of the Board.
- (2) In cases where the Board's decision differs from the written recommendation and findings of the Zoning Administrator or his designee, the Board shall collectively, draft, approve, and formally submit written recommendations and findings based on their decision to the secretary of the board. Such written recommendations and findings shall be read aloud by the president of the board at the same meeting in which they are formally submitted.

§ 155.843 PUBLIC HEARING PROCEDURE.

- (A) Applicant(s) shall obtain, complete, and submit an Application for Conditional Use along with six (6) copies of required site plans and any additional information which the Zoning Administrator feels the Board should review prior to the scheduled public hearing.
- (B) Applicant(s) should attend the public hearing and be prepared to answer questions relevant to the application.
- (C) The BZA will determine if it has the authority to grant the request.
- (D) The BZA may render a decision the same date as the public hearing or may continue the matter for further review.
- (E) In granting a conditional use, the BZA may impose additional and appropriate conditions, safeguards, and restrictions upon the premises benefited by the conditional use as may be necessary to comply with the Standards for Conditional uses established in this chapter.
- (F) The BZA shall render a written decision on the application without unreasonable delay on all cases, within thirty (30) days after the close of the public hearing.
- (G) Approval of a conditional use does not preclude the need for all applicable zoning and building permits.

CONDITIONAL USE PERMIT continued

(H) A conditional use granted by the BZA shall terminate at the end of one year from date on which the Board grants the conditional use, unless within such one-year period, a zoning certificate is obtained.

§ 155.844 REVOCATION OF CONDITIONAL USE PERMIT.

The village may revoke a Conditional Use Permit for failure to comply with the conditions of the permit. Upon a finding of failure to comply by the Zoning Administrator, and communication of this failure to the Village Solicitor, the Solicitor shall notify the holder of the permit either by certified mail or by direct service by the Zoning Administrator of its intent to revoke the permit and the holder's right to appeal that decision to the Board of Zoning Appeals as provided in Article VIII of the Albany Zoning Code. All such requests to appeal the revocation of a Conditional Use Permit shall be made in writing and delivered in person to Village Hall or by certified letter and shall be received by the village within fifteen (15) days of the holder's receipt of the village's notice. If a request to appeal is not received within the required time, the village may revoke the permit without a hearing. The authority to revoke a permit is in addition to any other means of zoning enforcement provided in this Zoning code.

§ 155.845 PAYMENT OF FEES.

Each Application for conditional use shall be accompanied by a fee of fifty (50) dollars.

§ 155.846 APPEAL TO THE COURT.

Those aggrieved by the finding of the Board of Zoning Appeals and subsequent action may appeal such decision to the Athens County Court of Common Pleas, as provided in ORC § 2506.01. Such appeal petition shall be presented to the court within 30 days after the day upon which written notification of the BZA's decision is mailed to the applicant or appellant.

Albany Village Code Supplement
TITLE XV: Land Usage

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(D) ZONING VARIANCE
(RES. 2020-05), Passed 03-04-2020

§ 155.861 PURPOSE.

- (A) In general, the purpose of a Variance is to address an extraordinary condition or unique situation that was not caused by the applicant's act or omission. An extraordinary condition or unique situation is one that does not ordinarily exist elsewhere in the village.
- (B) Variances can take one of two forms, as either an area variance or a use variance. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this code may impose on property owners. This section shall not be construed to permit variances which shall in effect amend the use provisions in the Zoning Code, on the basis of such inconveniences or financial burdens. It is intended that all variances, in order to be granted, shall meet all of the required criteria set forth in this Chapter.
- (C) The Board of Zoning Appeals shall have the power to grant variances from the provisions or requirements of the Albany Zoning Code provided that the following review standards are met and proved by the Applicant for Variance.
 - (1) It will allow preservation of equal property rights.
 - (2) It is not of a General Nature.
 - (3) It will not be contrary to the public interest.
 - (4) It is consistent and harmonious to the existing uses.
 - (5) It is the minimum that will afford relief to the applicant.
 - (6) It will meet the standards & conditions for granting variances established in this Article.

§ 155.862 PROCEDURE FOR VARIANCE.

- (A) Application An application for a variance may be filed, on a form provided by the Village, by any person aggrieved, including an owner, or tenant, or the agent of any of these, or by any Officer of the Village. If the Applicant is not the property owner, then the Applicant shall demonstrate that the Applicant has authority from the property owner. Such application shall be filed with the Zoning Administrator on a special form provided by the Village, who shall transmit the same to the Board of Zoning Appeals (BZA). The Zoning Administrator shall transmit to the BZA the Zoning Administrator's review of the Application for accuracy.
- (B) Public Hearing The Board of Zoning Appeals shall hold a public hearing within a reasonable time after the receipt of a complete application. Before conducting the public hearings required in this section, the Zoning Administrator shall file notice of such hearings as set forth in A.V.C. Chapter 155, Article 8(F), Public Hearings

§ 155.863 CONDITIONS FOR AN AREA VARIANCE.

- (A) When a property possesses conditions involving irregular, narrow, shallow or steep lots, or exceptional topographic conditions, or other extraordinary situation or condition, and because of such exceptional physical conditions, strict application of a provision or provisions of this Code would present ***practical difficulties*** for the owner, an area variance, when granted, can provide relief from the dimensional requirements of this code such as lot size or coverage, setback and yard requirements, height and area regulations, street-frontage, or interior floor area.
- (B) When evaluating an Area variance application, the following ***practical difficulties*** standards must all be found to be true by clear and convincing evidence in the totality of circumstances.
(reference: Supreme Court of Ohio Duncan v. Middlefield)
 - (1) Without the variance the property in question will not yield a reasonable return or there cannot be any beneficial use of the property.

Zoning Variance continued

- (2) As a result of the variance, the essential character of the neighborhood would not be substantially altered, or adjoining properties would not suffer a substantial detriment.
- (3) The variance is not substantial.
- (4) If granted, the variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage); or of light or air to adjoining properties.
- (5) The property owner did not purchase the property with knowledge of the zoning restriction.
- (6) Through some method other than a variance, the property owner's predicament cannot feasibly be obviated.
- (7) By granting the variance, the spirit and intent behind the zoning requirement would be observed and substantial justice done.

§ 155.864 CONDITIONS FOR A USE VARIANCE.

- (A) A Use variance involves the development or conversion of land for a use not permitted in the specific zoning district. Any application for a Use variance which could be approved through rezoning to any other classification shall not be approved as a variance, since this act would be equal to rezoning.
- (B) Because this type of relief is so significant, the Board shall find in favor of this type of variance only when all of the following "**unnecessary hardship**" factors are true:
 - (1) The property cannot be put to any economically viable and appropriate use under any of the permitted uses in the zoning district.
 - (2) The variance requested stems from conditions that are particular to the subject property and are not applicable, generally, to other properties within the same zoning classification.
 - (3) The hardship condition is not created by actions of the applicant.
 - (4) Granting of the variance will not be of substantial detriment to adjacent properties.
 - (5) Granting of the variance will not adversely affect the delivery of any government services (e.g., water, sewer, garbage); or of light or air to adjoining properties.
 - (6) Granting of the variance will not adversely affect the community character, public health, safety, or general welfare.
 - (7) The variance will be consistent with the general spirit and intent of the Zoning Code.

§ 155.865 TERMS OF VARIANCE.

- (A) No order of the Board of Zoning Appeals granting a variance shall be valid for a period longer than 12 months from the date of such order unless the use is commenced within such period.
- (B) No application which had been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Board of Zoning Appeals.

§ 155.866 PAYMENT OF FEES.

Village Council has established a fee of Two Hundred and Fifty Dollars (\$250.00) that is to be deposited with each application for a Zoning Variance.

§ 155.867 APPEAL TO THE COURT.

Those aggrieved by the finding of the Board of Zoning Appeals and subsequent action may appeal such decision to the Athens County Court of Common Pleas, as provided in ORC. §2506.01. Such appeal petition shall be presented to the court within 30 days after the day upon which written notification of the BZA's decision is mailed to the applicant or appellant.

(E) AMENDMENTS TO THE CODE.

§ 155.881 AUTHORITY FOR AMENDMENTS.

The regulations imposed, and the districts created under this Zoning Code may be amended from time to time by ordinance duly enacted by the Village Council, after receipt of recommendations thereof from the Planning Commission. The process is not intended to relieve particular hardships nor to confer special privileges or rights. No such amendment shall be adopted except in accordance with the procedures specified in this chapter subject to the procedures provided by law.

§ 155.882 REVIEW GUIDELINES.

In making a decision on proposed text or map amendments to the zoning code, the following guidelines may be considered by the Planning Commission and Village Council:

(A) Text Amendment. The proposed amendment would:

- (1) Clarify the intent of the code;
- (2) Correct an error in the code;
- (3) Affect the implementation of the Comprehensive Plan.
- (4) Not create incompatible land uses within a zoning district; and
- (5) Be consistent with the Village's ability to provide adequate public facilities and services.

(B) Zoning Map Amendment (Rezoning). The rezoning and the uses permitted in the proposed district:

- (1) Are consistent with the goals, policies, and future land use map of the Comprehensive Plan; or, if conditions have changed significantly since the plan was adopted, is consistent with recent development trends in the area;
- (2) Are compatible with surrounding uses;
- (3) Can be accommodated on the subject property, considering existing or planned infrastructure, and
- (4) Do not result in a spot zone.

§ 155.883 APPLICATION OR MOTION FOR AMENDMENT.

All proposed text or map amendments shall be initiated only in one of the following manners:

- (A) By filing an application with the Zoning Administrator on a form provided by the Village and signed by the owner of the land, or their agent,
 - A filing fee as set forth in A.V.C. § 155.887 is to be submitted with each application.
- (B) Transmitted by Village Council to the Planning Commission.
- (C) By recommendation of the Planning Commission.

§ 155.884 PUBLIC HEARING AND NOTICE.

- (A) Independent Hearings Required. Before the Planning Commission may put forth any recommendation to Village Council and before Village Council may adopt by ordinance any recommendation of the Planning Commission in the matter of any proposed text or map amendments, each shall first provide notice and conduct independent public hearings as set forth in A.V.C. Chapter 155, Article 8(F), Public Hearings
- (B) Proposal to Rezone ten or fewer parcels. Any Ordinance, measure, or regulation that would rezone ten (10) or fewer parcels of land as listed on the tax duplicate, shall require that the Clerk of Council provide notice as set forth in A.V.C. § 155.893(F).
(ORC 713.12)

§ 155.885 PLANNING COMMISSION ACTION.

- (A) At the conclusion of a public hearing, as set forth in A.V.C. Chapter 155, Article 8(F), Public Hearings, and the acceptance and review of any application or motion that proposes a text or map amendment, the Planning Commission shall recommend to Village Council that the application or motion;
 - (1) be adopted, or

Amendments to the Code continued

- (2) be adopted in a form modified by the Commission from the application or motion as originally submitted, or
- (3) be denied.

(B) All recommendations of the Planning Commission shall be concurred by at least three members.

(C) All recommendations of the Planning Commission shall, to the extent possible, endeavor to preserve the character of this chapter as well as all adjacent zoning districts.

(D) The Planning Commission shall report its recommendation to the Village Council not later than the next regular meeting of the Council after the public hearing held by the Planning Commission.

(E) All recommendations shall also be forwarded to the applicant, as applicable.

§ 155.886 VILLAGE COUNCIL ACTION.

(A) During an independent public hearing as set forth in A.V.C. Chapter 155, Article 8(F), Public Hearings, the Village Council shall consider recommendations put forth by the Planning Commission and shall conduct a vote in which they may, by ordinance;

- (1) adopt the recommendation of the Planning Commission,
- (2) deny the recommendation of the Planning Commission, or
- (3) adopt some modification thereof.

(B) No proposal to amend either the text of this chapter or the official zoning map shall take effect without the concurrence of at least a majority of the full membership of village council.

(C) Any proposal to amend either the text of this chapter or the official zoning map which differs from or departs from the recommendations submitted by the commission must be approved by not less than three-fourths of the full members of village council.

(ORC 713.12)

§ 155.887 PAYMENT OF FEES.

Village Council has established a fee of One Hundred Dollars (\$100.00) that is to be deposited with each application or motion for a proposed text or map amendment.

(RES. 2018-26, Passed 10-23-2018),

(F) PUBLIC HEARINGS.

§ 155.891 SETTING HEARINGS; TIME LIMITATIONS.

When the provisions of this Chapter require a public hearing in connection with any application or motion filed pursuant to this Chapter, the hearing body (BZA, Planning Commission, or Village Council) charged with conducting the hearing shall, upon receipt of a completed application or petition, submitted on a form provided by the Village, fix a reasonable time and place for such hearing. However, such hearing shall be commenced no later than 60 days following the submission of the application or petition.

§ 155.892 NOTICE OF HEARING.

The hearing body shall cause the Clerk of Council to send notice of a public hearing which shall be provided in accordance with the following provisions;

(A) Types of Notice. The hearing body shall provide notice of every hearing as follows:

- (1) Published Notice. The hearing body shall provide notice of all Public Hearings as provided in Section 155.893 below thereof to a newspaper of general circulation and such notice shall also be displayed at locations within the Village in a manner as set forth in A.V.C. §32.051.01. Publication by the newspaper of general circulation only on its website and not in a print newspaper shall not render such publication to be invalid.
- (2) Mailed Notice. Any public hearing that requires a notice to be mailed to adjoining landowners, as provided in Section 155.893 below, shall have said notice mailed by first class mail, to all owners of property within, contiguous to and directly across the street from such area that is found to be part of said action. The Village reserves the right to mail notices to additional property owners or tenants who may be impacted by the action sought.

(B) Content of Notice. All published and mailed notices shall include the date, time, and place of such hearing, a description of the matter to be heard or considered and the address or particular location of the subject property, if any, and a statement that the opportunity to be heard will be afforded to any person interested.

(C) Failure to Provide Notice. The failure of delivery of such notice shall not invalidate any such ordinance, measure, or regulation.

§ 155.893 TYPES OF HEARINGS.

In the event that an application, or motion, is brought before the BZA, Planning Commission, or Village Council, the following rules pursuant to Section 155.892 above shall apply;

Hearing Body	Code reference	Published Notice (A)(1)	Mailed Notice (A)(2)
<i>Board of Zoning Appeals</i>			
(A) Administrative Appeal	A.V.C. § 155.804(A)	7 Days	NO
(B) Conditional Use Permit application	A.V.C. § 155.804(A)	7 Days	10 Days
(C) Zoning Variance application	A.V.C. § 155.804(A)	7 Days	10 Days
<i>Albany Planning Commission</i>			
(D) Text amendment of an administrative nature	A.V.C. § 155.884(A)	7 Days	NO
(E) Text amendment of a regulatory nature	A.V.C. § 155.884(A)	30 Days	20 Days
(F) Zoning Map amendment	A.V.C. § 155.884(A)	30 Days	20 Days
<i>Albany Village Council</i>			
(G) Recommendation from PC (administrative text)	A.V.C. § 155.886(A)	30 Days	NO
(H) Recommendation from PC (regulatory text)	A.V.C. § 155.886(A)	30 Days	20 Days
(I) Recommendation from PC (Zoning Map amendment)	A.V.C. § 155.886(A)	30 Days	20 Days

Statutory reference

ORC § 713.12

Public Hearings continued

§ 155.894 PRE-HEARING DOCUMENT EXAMINATION.

- (A) Document Examination. During the ***thirty (30) days*** prior to any public hearing conducted, any applications, maps, or plans, if any, shall be available for public examination in the office of the Clerk of Council or in such other office as is designated by the Village Council.
- (B) Copies of Documents. Any person shall be entitled to copies of such application and documents, if any, upon reasonable request and payment of a fee as established by the Village Council to cover the cost of such copies.

§ 155.895 CONDUCT OF HEARINGS.

- (A) Rights of All Persons. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney and may submit documentary evidence; provided, however, that the hearing body may exclude irrelevant, immaterial, or unduly repetitious evidence.
- (B) Right to Submit Written Statements. Any person may, at any time prior to the commencement of a hearing hereunder, or during such hearing, or within such time as may be allowed by the hearing body, submit written statements in support of or in opposition to the application being heard.
- (C) Rights of Parties and Proximate Owners. Subject to the discretion of the hearing body, the applicant and any board, commission, department, or official of the Village, and any property owner entitled to written notice may exercise all of the following rights:
 - (1) To offer and present evidence in support of or in opposition to their positions;
 - (2) To examine and reproduce any documents produced at the hearing; and
 - (3) To a continuance, upon request, for the purpose of presenting evidence to rebut evidence introduced by any other person.

In determining whether to grant or withhold such rights, the discretion of the hearing body shall be governed by the goal of securing all information and opinion relevant and material to its deliberations. Such rights shall not be granted, however, when undue and unwarranted delay would result, or when to do so would tend to produce no new evidence to aid the hearing body in reaching its decision.

- (D) Adjournment of Hearing. The hearing body conducting the hearing may at any time, on its own motion, adjourn the hearing for a reasonable time and to a fixed date, time, and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the hearing body may find to be sufficient. If the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required.
- (E) Board or Commission Rules to Govern. All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Code pertaining to, and the rules promulgated by, the body conducting the hearing.

ARTICLE 9: PENALTIES AND REMEDIES

(RES. 2018-18, Passed 6-21-2018)

§ 155.901 VIOLATION OF ZONING CODE; VIOLATION CONSTITUTES A NUISANCE.

(A) In the event of any violation of this Albany Zoning Code, the Albany Zoning Administrator shall serve notice of violation in accord with this Article and shall take enforcement actions in accordance with this Article. In addition to being a violation of this Zoning Code, any Buildings erected, altered, razed, or converted, or uses carried on in violation of any provision of the Albany Zoning Code are declared to be a nuisance per se. The Albany Zoning Administrator may request a court of competent jurisdiction to order such nuisance abated. Upon proof by the Village of violation the owner or agent in charge of such building or land shall be adjudged guilty of said violation and therefore of maintaining a nuisance per se, and the Court shall order the violation to be remedied and shall issue an order to abate the said nuisance. These remedies shall be in addition to any fines or penalties assessed per § 155.904 below, and in addition to any other remedies provided for under § 155.903 below.

(B) Any violation of this Albany Zoning Code shall constitute a violation regardless of whether that violation is committed by any person, firm, or entity, including without limitation the following: by the property title owner(s) of record, by the person(s) having the right of possession, by the person(s) in actual possession or occupancy of the property, by the person(s) who engage in construction or physical activity which actually violates the Zoning Code. In addition, should it not be reasonably practicable to identify the above persons, or if it is not reasonably practicable to serve notices of violation upon them, then the Village may pursue the violation as an in-rem matter against the property itself, and pursue the remedies available as such. In such cases, service of notice by posting the notice at the property itself shall constitute sufficient notice for purposes of this Zoning Code.

(C) In addition, any excavator, contractor, or subcontractor excavating or erecting any building or structure in violation of any village ordinances or excavating or erecting any building or structure for which a building permit is required, and for which the owner or lessee causing the building or structure to be erected shall have failed to procure or receive a building permit as required by this chapter shall be subject to a similar penalty, and subject to the similar remedies hereunder, as the owner or lessee of the property who is causing the structure or building to be erected.

§ 155.902 VIOLATION NOTIFICATION PROCEDURE.

(A) First notice of violation.

- (1) The Albany Zoning Administrator shall issue a **first notice of violation**, by regular U.S. Mail, posting in a prominent place on said premises, or served personally, to the record title owners(s), person(s) having the right of possession, the person(s) having actual possession of the premises, or the person(s) who engage in construction or physical activity, in violation of any section or division of the Albany Zoning Code.
- (2) The first notice of violation shall identify the date of the violation, the property on which the violation is occurring, the nature of the violation, the corrective action to be taken, and the timeframe within which to complete such action. If no timeframe is specified in the notice of violation, then the timeframe for completion shall be no longer than 30 days.

(B) Second notice of violation.

- (1) If the enforcing officer determines that the violation of the same section of this code as cited in the first notice of violation, as provided for in division (a), has not been fully remedied within the prescribed timeframe provided for in division (a)(2) of this section, or if it reoccurs within 12 months of the first notice, the Albany Zoning Administrator shall send a second notice of violation, by U.S. Certified Mail, Return Receipt Requested posting in a prominent place on said premises, or served personally, to the record title owners(s), person(s) having the right of possession, the

person(s) having actual possession of the premises, or the person(s) who engage in construction or physical activity, in violation of any section or division of the Albany Zoning Code. If no timeframe is specified in the notice of violation, then the timeframe for completion shall be no longer than 30 days.

- (2) The second notice of violation shall identify the date of the violation, the property on which the violation is occurring, the nature of the violation, the corrective action to be taken, and the timeframe within which to complete such action.
- (3) After the expiration of the second notice's time frame provided for in division (b)(2) of this section, the Albany Zoning Administrator may commence appropriate legal action or refer the matter to the Village Solicitor for appropriate legal action.

(C) Continuation of violation.

- (1) If a person has received a first notice of violation of any section of the Albany Zoning Code and the person commits another violation of the same section of this code within 12 months of receiving the first notice of violation, the second violation may be considered a continuing violation and an enforcing officer may issue a second notice of violation.
- (2) If a person has received a first and second notice of violation of any single section of the Albany Zoning Code and the person commits another violation of the same section of this code within 12 months of receiving second notice of violation, the third and any subsequent violation (s) may be considered a continuing violation and the Albany Zoning Administrator may commence appropriate legal action or refer the matter to the Village Solicitor for appropriate legal action.

§ 155.903 REMEDIES; AFFECTED PARTIES.

(A) Remedies.

- (1) If any building or land is used, altered, constructed, enlarged, located, erected, reconstructed, changed, renovated, or maintained, or any such action proposed, in violation of the provisions of the Albany Zoning Code or any amendment or supplement thereto, the Zoning Administrator, the Mayor, the Village Council, or the Village Solicitor, in addition to other remedies provided by law, are hereby empowered or authorized to institute appropriate legal action or proceedings to prevent, restrain, correct, or abate, or otherwise remedy, such unlawful use, alteration, construction, enlargement, location, erection, reconstruction, change, renovation, or maintenance, and to prevent the occupancy of said building, structure, or land, in violation of this Zoning Code, or to prevent any illegal act, conduct business, or use, in, on, or about such premises.
- (2) Failure to obtain a *Zoning Certificate* shall be a violation of this chapter and shall be remediable under this section and punishable under § 155.904.
- (3) All use, alteration, construction, enlargement, location, erection, reconstruction, change, renovation, or maintenance of property subject to this Zoning Code shall conform to that which is described in the application for Zoning Certificate, and attached plans, permits and certificates. A Zoning Certificate issued on the basis of plans and applications approved by the Village authorize only the arrangement set forth in such approved plans and applications or amendments thereto, and no other arrangement. Any use, alteration, construction, enlargement, location, erection, reconstruction, change, renovation, or maintenance not in compliance with that authorized shall be deemed a violation of this chapter, and remediable under this section and punishable as provided in § 155.904.

(B) Other Action. Nothing herein contained shall prevent the village from taking such other lawful action as is necessary to prevent or remedy any violation.

(C) Affected Parties. The owner or tenant of any building, structure, premises, or part thereof, and 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, and be subject to the remedies, herein provided.

(D) **Failure to Comply:** In case any person refuses to comply with an order issued pursuant to the above provisions, in addition to the penalties provided by this ordinance, the Village may institute appropriate civil proceedings to enforce compliance with the order. In such civil proceedings the Village may collect the costs and attorney fees incurred by the Village for enforcement of this ordinance. Appropriate action or proceedings shall include, at the election of the Village Council, Mayor, Zoning Administrator or Solicitor, injunctive relief in the form of Temporary Protection Order, Preliminary Injunction, and Permanent Injunction, Declaratory Judgment Action, Action for Damages, Action to Declare and abate a nuisance, and any other relief available as provided by law. In any such action or proceeding the Village shall be awarded and shall collect the litigation costs and attorney fees incurred by the Village in the said actions or proceedings. The work of the Solicitor in those actions or proceedings shall be included in the litigation costs and attorney fees incurred by the Village.

§ 155.904 PENALTY.

In addition to or separate from the remedies or legal action provided for in § 155.903, or otherwise, the Zoning Administrator may issue a citation or instruct that an Albany Police Officer issue a citation per this section. It is not a condition precedent to the issuance of a citation that the Violation Notice procedure of § 155.902 is performed or completed.

(A) Code violation penalties. Whoever violates any provision of this chapter is guilty of the following offenses and shall be subject to the following penalties:

- (1) A first offense shall constitute a minor misdemeanor and shall be fined at \$100.00.
- (2) A second offense, (whether or not of the same section of this chapter, occurring not later than two years after the previous offense) shall constitute a misdemeanor of the **FOURTH** degree. The Court shall impose upon the offender a fine of not less than \$250.00. The Court may impose an appropriate sentence of imprisonment.
- (3) A third offense (whether or not of the same section of this chapter, occurring not later than two years after the first offense) shall constitute a misdemeanor of the **THIRD** degree. The court shall impose upon the offender a fine of not less than \$500. The Court may impose an appropriate sentence of imprisonment.
- (4) A fourth offense (whether or not of the same section of this chapter, occurring not later than two years after the previous offense), shall constitute a misdemeanor of the **SECOND** degree. The court shall impose upon the offender a fine of not less than \$750. The Court may impose an appropriate sentence of imprisonment.
- (5) For a fifth offense and each subsequent offense (whether or not of the same section of this chapter, occurring not later than two years after the previous offense), a misdemeanor of the **FIRST** degree. The court shall impose upon the offender a fine of not less than \$1,000 or shall impose a sentence of imprisonment for not more than 30 days or may impose both such a fine and sentence of imprisonment.
- (6) A separate offense shall be deemed committed upon each day during which a violation occurs or continues. When charging or citing offenses, one citation or charging instrument may state multiple or separate violations; a separate citation shall not be required by any court for each separate violation charged.

Albany Village Code Supplement
TITLE XV: Land Usage

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ARTICLE 10: DEFINITIONS

§ 155.999 PURPOSE

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Accessory building or structure. A subordinate building or structure, detached from, but located on the same lot, as the principal structure or building, the use of which is incidental and accessory to that of the principal structure, building, or use. Accessory buildings or structures include, but are not limited to detached residential garages, storage sheds and barns, temporary carports, and picnic shelters.

Accessory use. A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use.

Adult Family Home. A residence or facility, as defined and regulated in Ohio Revised Code § 5123.19, which provides accommodations for three to six unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

Adult Group Home. A residence or facility, as defined and regulated in Ohio Revised Code § 5123.19, which provides accommodations for seven to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

Agricultural. Raising of Crops: 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.

Agricultural. Animal Husbandry and Keeping of Livestock: The use of land for dairying, animal raising, breeding, and 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.

Agriculture. Any agriculture use, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

Alley. A public or private way which affords only secondary means of access to abutting properties.

Archaeological Site:

Arterial Street. A major or main route. The primary function of an arterial street is to deliver traffic from collector streets to freeways or expressways, and between urban centers at the highest level of service possible.

Assisted Living Facility. 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.

Automobile repair. The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, and steam cleaning of vehicles.

Automobile service station or filling station. A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including greasing and oiling on the premises.

Building. 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.

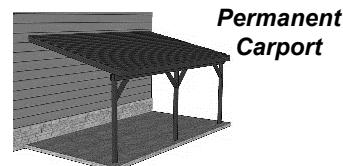
Building HEIGHT. The vertical distance measured from the average elevation of the finished grade at the front of the building to (a) the highest point of a flat roof; (b) the deck line of a mansard roof; (c) the average height between the eaves and ridge for gable, hip, and gambrel roofs; or (d) the average height between high and low points for a shed roof. (See Illustration)

Building, principal. A building in which is conducted the main or principal use of the lot on which said building is situated.

Bulk controls. Standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which the building can be located, including coverage, setbacks, height, floor area ration, and yard requirements.

Campground. An area of land on which two or more travel trailers, campers, tents, or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure or fixture of equipment that is used or intended to be used in connection with providing such accommodations.

Carport, Permanent. An open-sided roofed shelter that is formed by the extension of a roof which is affixed to the side or end of a building and supported by posts that are attached to the ground, with or without an opposite side wall, which is also without a door, and used primarily for parking one or more automobiles. When not open on at least one side and one end, this shall be deemed a garage.



Carport, Temporary. A vehicle or other shelter which is mounted on a rigid frame and supported by side posts and not attached to the ground except with anchor-spikes; which is also without a door, and entirely open on two or more sides, except for structural supports, and not attached to other structures or buildings. If a structure does not comply with the criteria for a temporary carport, then it shall be deemed a permanent carport or a garage. (Ord. 2022-10, Passed 03-16-2022)



Cemetery. Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries if operated in connection with, and within the boundaries of, such cemetery.

Church or Place of Religious Worship. An institution that people regularly attend to participate in or hold religious services, meetings, and other religious related activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clinic. A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Club. Buildings or facilities owned or operated by a corporation association or persons for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business. This does not include student-related organizations.

Community Center. A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Comprehensive Plan. Means the long-range plan and any updates thereto, describing the desirable use of land as adopted by the Planning Commission and the Village Council; the purpose of such plan being, among other purposes, to serve as guide in future development and zoning for the village.

Computer Data Center. A "computer data center" is a business that operates a computer data center, including the equipment and infrastructure necessary to generate, transform, transmit, or manage electricity for the data center, and utilizes building materials for its construction. Key aspects of the definition are a

primary business function to process and store electronic data, a significant capital investment, the use of specialized equipment like servers and cooling systems, and reliance on electricity for operation.

Conditional use permit. A permit approved by the Board of Zoning Appeals and allowed by resolution of village council to allow a use other than a principally permitted use to be established within the zone.

Conditionally Permitted Use. A use which is subject to conditional approval by the Board of Zoning Appeals, UPON SUCH CONDITIONS AS THE VILLAGE MAY REQUIRE. A conditional use may be granted by the BZA only when there is a specific provision for such special exceptions made in this Zoning code. A conditional use is not considered to be a nonconforming use.

Condominium. 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 homeowner's association and/or Ohio law.

Converted dwelling unit. Any dwelling unit which has had a change in nature or use to any of the following: Two family, multi-family, apartment, boarding house, rooming house, lodging house, or rented property.

Council. The village council of the Village of Albany.

Day Care Center. A facility operated for the purpose of providing care, protection, and guidance to individuals during part of a twenty-four-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 twenty-four-hour period.

Development. 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.

District or Zoning District. Means the administrative tracts designating the uses for which land can be legally utilized. Boundaries of the districts or zones are shown on the zoning map, which is part of this code.

Domestic animals. Those animals commonly accepted as domesticated household pets. Domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, rats, mice, chinchillas, ferrets, domesticated rabbits, fish, arthropods, nonpoisonous or nonvenomous reptiles or amphibians.

Drive-Through Facility. An establishment that encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

Driveway. An improved surface connecting a public road to a parking area.

Dwelling Unit. "Dwelling Unit" or "Residential Dwelling Unit" establishes a single-family residence where one or more persons maintain a household, including a manufactured home, and each unit of an apartment or condominium complex. Dwelling unit or Residential Dwelling unit shall not include:

- (A) Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service.
- (B) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization
- (C) Occupancy in a hotel, motel, vacation cottage, boardinghouse, or similar lodging held out for transients, unless let continuously to one occupant for more than 30 days, including occupancy in such lodging subject to taxation.
- (D) A detached garage or other out-building not intended for residential habitation.

Dwelling, multi-family. 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.

Dwelling, rooming house (boarding house, lodging house, dormitory, fraternity, and sorority chapter houses). A dwelling or part thereof, other than a hotel, motel, or restaurant where meals and/or lodging are provided for compensation, for six or more unrelated persons where no cooking or dining facilities are provided in the individual rooms.

Dwelling, single-family. A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

Dwelling, two family. A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall, except for a common stairwell exterior to both dwelling units.

- (A) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.
- (B) Occupancy in a hotel, motel, vacation cottage, boardinghouse, or similar lodging held out for transients, unless let continuously to one occupant for more than 30 days, including occupancy in such lodging subject to taxation.
- (C) Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service.

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property. A grant of one or more of the property rights by the property owner to and/or for specific use by the public, a corporation, or another person or entity.

Educational facilities. Buildings or structures used to teach students. Educational facilities may include primary schools, elementary schools, middle schools, and high schools. Educational facilities shall not include colleges, vocational schools, and other similar uses.

Essential services. Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, steam, water, sewerage, traffic control devices and other utilities and the equipment and appurtenances necessary for such systems to furnish and adequate level of service for the area in which it is located.

Family. Two or more persons related by blood, marriage, or adoption or not more than three unrelated individuals occupying a dwelling unit as an individual housekeeping organization. A "group family" is not permitted the keeping of any roomers in any "R" district.

Fence. An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Floriculture. the cultivation and management of ornamental and especially flowering plants.

Food processing. The preparation of food products for retail sale on the premises.

Foster Family Home. A residential facility that provides room and board, personal care, habilitation services and supervision in a family setting for not more than five (5) developmentally disabled persons pursuant to Ohio Revised Code Chapters 5119 and 5123.

Foster Home. A private residence in which children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children non-secure care, supervision, or training twenty-four (24) hours a day. "Foster home" does not include care provided for a child in the home of a person other than the child's parent, guardian, or legal custodian while the parent, guardian, or legal custodian is temporarily away. "Family Foster Homes," "Specialized Foster Homes" and "Treatment Foster Home" as defined in Ohio Revised Code Chapter 5103 are types of foster homes.

Funeral Home. A building or part thereof used for human funeral services. Such building may contain space and facilities for:

- (A) Embalming and the performance of other services used in preparation of the dead for burial;
- (B) The performance of autopsies and other surgical procedures; and

(C) The storage of caskets, funeral urns and other related funeral supplies including the storage of funeral vehicles but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted

Garage, private. A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers and/or boats of the occupants of the premises and wherein:

- (A) Not more than one space is rented for parking to person not resident on the premises;
- (B) No more than one commercial vehicle per dwelling unit is parked or stored;
- (C) The commercial vehicle permitted does not exceed two (2) ton capacity.

Garage, repair. A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. (also, see "Service station")

Government Offices and Facilities. A building or land used and/or controlled exclusively for governmental or public purposes by any department or branch of government including township, state, county, or other recognized public entity. Such use may include, but is not limited to, township 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 Code.

Group family. Means not more than three (3) persons, any one of which is not related by blood, marriage, or adoption to another, living together as a housekeeping unit.

Group Home. means a residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine (9) but not more than sixteen (16) developmentally disabled persons pursuant to Ohio Revised Code Chapters 5119 and 5123.

Health/Recreation Facility. An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzis and/or sauna and pro shop.

Historic district. An area of the village designated by a local authority or state or federal government within which the buildings, structures, appurtenances, and places are of basic and vital importance because of their association with history; or because of their unique architectural style and scale, including color, proportion, form, and architectural detail or because of their being a part of or related to a square, park, or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical, or architectural motives or purposes.

Home occupation. Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit.

Horticulture. the science and art of growing fruits, vegetables, flowers, or ornamental plants.

Hospital and/or Clinic. A facility providing physical or mental health services, outpatient, inpatient or over-night accommodations, and medical or surgical care of the sick or injured. This land use category shall also include urgent care centers or clinics that can receive ambulance service.

Hotel. means a transient hotel, extended stay hotel, or residential hotel. Hotel includes any structure consisting of one or more buildings containing any combination of more than five guestrooms that are each approved by the building code official having jurisdiction and the state fire marshal as meeting the requirements for transient sleeping rooms or extended stay temporary residence dwelling units, or as having features of such sleeping rooms and dwelling units within the same room, and such structure is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where transient sleeping accommodations or temporary residence is offered for pay to persons, but such structure does not otherwise meet the definition of a transient hotel or an extended stay hotel as defined in this section. Hotel does not include agricultural labor camps, apartment houses, apartments,

or other similar places of permanent personal residence, lodging houses, rooming houses, or hospital or college dormitories. (also, see "Motel") (*Ohio Revised Code Section 3731.01(a)(1)*)

Housekeeping Unit. 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, hotel, or motel.

Industrialized unit. A building unit or assembly of closed construction fabricated in an off-site facility that is substantially self-sufficient as a unit or part of a greater structure and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a mobile home or manufactured home as herein defined. [*Ohio Revised Code Section 3781.06 (C) (3)*].

Inoperable motor vehicle. Any motor vehicle, including a licensed collector's vehicle or licensed historical vehicle, which for a period of thirty (30) days or more remains in either of the following conditions:

- (A) Does not display a valid registration sticker or license plate; or
- (B) is wrecked, partially wrecked, dismantled, partially dismantled, discarded, or incapable of operation under its own power.
- (C) "Dismantled or partially dismantled" means any motor vehicle from which some parts have been removed or are missing.
- (D) "Incapable of operation" means any motor vehicle which is unable or apparently unable to move under its own power.

Junk. Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

Junk buildings, junk shops, junk yards. Any land, property, structure, building, or combination of the same, on which junk is stored or processed.

Junk motor vehicle. Any motor vehicle meeting all of the following requirements:

- (A) Three (3) years old or older;
- (B) Extensively damaged, such damage including, but not limited to any of the following: a broken window or windshield, missing tire(s), wheel(s), motor, or transmission;
- (C) Apparently inoperable;
- (D) Having a fair market value of one thousand five hundred dollars (\$1,500.00) or less.

Junkyard. means an establishment or place of business which is maintained or operated for the purpose of storing, keeping, buying, or selling junk. For the purpose of this code, the term "junkyard" shall also include scrap metal processing facilities.

Kennel. Any lot or premises on which four or more domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, or sold for profit and which offers provisions for medical treatment.

Laundry, self-service. A business that provides home-type washing, drying, and/or ironing machines for hire on the premises to be used by customers.

Lessee. A person who holds real or personal property under a lease.

Lessor. A person who conveys property by lease.

Libraries, Museums, Galleries, and Cultural Centers. 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.

Licensed collector's vehicle. A collector's vehicle, other than an agricultural tractor or traction engine that displays current, valid license tags issued under Ohio Revised Code Section 4503.45, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

Licensed historical vehicle. A historical vehicle that displays current, valid license tags issued under Ohio Revised Code Section 4503.181.

Livestock. Generally accepted outdoor farm animals including, but not limited to, cows, goats, horses, pigs, and barnyard fowl, etc. Livestock shall not include dogs, cats, and other household pets.

Loading/unloading zone, off-street. An off-street space or berth for the loading or unloading of freight carriers on the same lot as the structure they serve.

Lodging Establishment. means every establishment located within the Village kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which one or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures. This includes but is not limited to hotels, motels, bed & breakfasts, (including Airbnb) cabins, condominiums, vacation homes, rooms in residences being rented to guests for sleeping accommodations, owner-occupied residences, accessory dwelling units, and non-owner-occupied residences.

Lot area. The area of horizontal plane bounded by the vertical planes through front, side, and rear lot lines.

Lot coverage. Determined by dividing all area of a lot that is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

Lot frontage. The front of a lot shall be construed to be the portion nearest the street which is used for emergency vehicles. For purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and the yards shall be provided as indicated under "yards" in this section.

Lot of record. A lot which is part of a subdivision recorded in the office of the Athens County Recorder, or a lot of parcel described by metes and bounds, the description of which has been so record.

Lot, corner means a lot abutting on and at the intersection of two (2) or more streets.

Lot, interior means an interior lot is a lot other than a corner lot.

Lot, minimum area of. The area of a lot is computed, exclusive of any portion of the right-of-way of any public or private street.

Lot-Parcel. For the purposes of this code, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street.

Lot Measurements. A lot shall be measured as follows:

- (A) Depth: The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (B) Width: The distance between straight lines connecting the front and rear lot lines at each side of the lot, measure at the building setback line.

Lot types. Terminology used in this title with reference to corner lots, interior lots and through lots is as follows:

- (A) Corner lot: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meets at an interior angle of less than 135°.
- (B) Interior lot: A lot with only one frontage on a street.

(C) Through lot: A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as a double frontage lot.

Maintenance and storage facilities. Land, building, and structures devoted primarily to the maintenance and storage of construction equipment and material.

Manufactured home park. Any lot upon which three (3) or more (*Ohio Revised Code Chapter 4781*) manufactured homes are located for residential use, either free of charge or for revenue purposes, including any roadway, building, structure, vehicle, or enclosure used or intended to be used as a part of the facilities of such park. (also, see "Mobile Home Park")

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufacturing, extractive. Any mining, quarrying, excavating processing, storing, separating, cleaning, or marketing of any mineral natural resources.

Manufacturing, heavy. manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the zone boundary.

Manufacturing, light. manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances.

Medical and Dental Office. 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.

Mobile Home Park. Any site or tract of land under single ownership upon which three (3) or more (*Ohio Revised Code Chapter § 4781*) mobile homes used for habitation are parked, either free of charge or for revenue purposes, including any roadway, building structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park. (also, see "Manufactured Home Park")

Mobile Home. Any non-self-propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, when connected to utilities, whether resting on wheels, jacks, blocks, or other temporary foundation and used or so construed as to permit its being used as a conveyance upon the public streets and highways and exceeding a gross weight of 4,500 pounds and an overall length of 30 feet, and not in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974. (*Ohio Revised Code Chapter § 4781*)

Motel. A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for motor vehicle transient guests and having a parking space next to a sleeping room. An automobile court or a tourist court with more than one (1) unit or a motor lodge shall be deemed a motel. (also, see "Hotel")

Motor home. A self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food and for sleeping.

Nonconforming use. A building, structure, or premises legally existing and/or used at the time of adoption of the zoning code, or any amendment thereto, and which does not conform with the use regulations of the zone in which located. Any such building, structure or premises conforming in respect

to use but not in respect to height, area, yards or courts, or distance requirements from more restricted zones or uses, shall not be considered a nonconforming use.

Nonconformities. Lots, uses of land, structures, and uses of structures and land in combination, lawfully existing at the time of enactment of the zoning code or its amendments which do not conform to the regulations of the zone in which they are situated, and are, therefore, incompatible.

Nursery, plant materials. Land, building structure, combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping.

Nursing home. A home or facility for the care and treatment of babies, children, pensioners, or elderly people.

Offices. 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.

Open spaces. An area substantially opens to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, tennis courts and any other recreational facilities that the commission deems permissive. Streets, parking areas, structures for habitation, and the like shall not be included.

Overlay zone. A zone that encompasses one or more underlying zones and that imposes additional requirements above those required by the underlying zone.

Parcel (lot) Split. The division of a parcel into smaller parcels for further development.

Parking area, private. A parking area for the exclusive use of the owners, tenants, lessees, or occupants of the lot on which the parking area is located or their customers, employees, or whomever else they permit to use the parking area.

Parking area. Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles and bicycles including parking lots, garages, and legally designated area of public interests with or without payment of fee.

Parking space, off-street. For the purpose of the zoning code, an off-street parking space shall consist of any area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room but shall be located totally outside of any street or alley right-of-way.

Parks, Playgrounds, and Recreational Facilities. 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.

Performance bond or surety bond. An agreement by a subdivider or developer with the village for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.

Permanent foundation. A permanent masonry, concrete, or footing or foundation approved by the manufactured homes commission pursuant to (*Ohio Revised Code Chapter § 4781*) to which a residential dwelling, industrialized unit, manufactured home, or mobile home may be affixed.

Permanently sited manufactured home. A manufactured home that meets the following criteria:

- (A) The structure is affixed to a permanent foundation and is connected to appropriate facilities;
- (B) The structure, excluding any additions, has a width of at least twenty-two (22) feet at one point, a length of at least twenty-two (22) feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred (900) square feet.

- (C) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch (6") minimum eave overhang, including appropriate guttering;
- (D) The structure was manufactured after January 1, 1995;
- (E) Structure is not located in a manufactured home park or mobile home residential district as herein defined.

Permitted Accessory Use. A permitted use of land within a particular zone or district, that is not a Principal Permitted Use but is a secondary use or an accessory use. In this Code secondary uses or accessory uses are limited to those identified as such in the §155.701 *TABLE 1* Chart of Uses attached hereto.

Personal Service Establishments. Establishments that primarily engage 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, massage therapy, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

Planned unit development. An area of land in which a variety of housing types and/or commercial and industrial facilities are accommodated in a preplanned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations. The procedure for approval of such development contains requirements in addition to those of the standard subdivision such as building design principles, and landscaping plans.

Principal Permitted Use. The main use of land permitted within a particular zone or district as distinguished from a secondary or accessory use. In this Code Principal Permitted Uses are limited to those identified as such in the §155.701 *TABLE 1* Chart of uses attached hereto.

Professional activities. The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, and engineers, and similar professions.

Public park. Public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian bicycle paths, open space, wilderness areas, or similar public land within the village which is under the control, operation or management of the village, county, or state.

Public service facility. The erection, construction, alteration, operation, or maintenance of buildings, power plants, or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned or by a municipal or other governmental agency, including the furnishing of electrical gas, rail transport, communication, public water, and sewage services.

Public uses. Public parks, schools, colleges, universities, administrative and cultural buildings, and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

Quasi-public use. Churches, Sunday schools, parochial schools, private colleges/universities, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or nonprofit nature.

Recreation facilities. A place designed and equipped for the conduct of sports and leisure-time activities.

Recreational vehicle. Recreational vehicle shall mean a vehicle that is:

- (A) Built on a single chassis;
- (B) 400 square feet or less when measured at the largest horizontal projection;
- (C) Designed to be self-propelled or permanently towable by a light duty truck; and
- (D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Religious place of Worship. 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.

Remodel. To construct an addition or alter the design or layout of a building or make substantial repairs or alterations so that a change or modification of the entrance facilities toilet facilities, or vertical access facilities is achieved.

Remodeling or minor alteration. Any change, addition, substantial repair or improvement to the design or layout of an existing structure including, but not limited to modifications of egress or emergency escape facilities, plumbing facilities where a plumbing permit is required in accordance with the building code, electrical or plumbing facilities where a licensed contractor is required in accordance with the building code or where the value of improvements requires notification of the Athens County Auditor in accordance with Ohio Revised Code Section 5713.17.

Residential Uses. Places where persons live or reside and are associated with dwelling units as defined in this chapter.

Restaurants. An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

Right-of-way. A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped area, viaducts, and bridges.

Roadside stand. A temporary structure designed or used for the display or sale of agricultural products produced on the premises upon which such a stand is located.

Row house or Townhouse. A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation.

Satellite earth station antenna. A parabolic or dish-shaped antenna or any other apparatus or device that is designed for the purpose of receiving radio waves.

School. Any public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, and special education schools.

Self-Storage Facilities. 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.

Service station. Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. "Service station" shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted. (also, see "Garage, repair"):

Setback line. A line established by the zoning code, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in said code.

Sewers, central or group. An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

Sewers, on-site. A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

Sexually oriented business. An adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theater or adult theater. Sexually oriented business does not include a nude model studio.

Sidewalk. A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

Sign. Any visual communication, display, object, device, graphic, structure, or part, situated indoors or outdoors, or attached to, painted on, or displayed from a building or structure, in order to direct or attract attention to, or to announce or promote, and object, person, service, product, event, location, organization or the like, by means of letters, words, designs, colors, symbols, fixtures, images or illuminations.

- (A) "Sign, on-premises." Any sign related to a business or profession conducted, or a commodity or service sold or offered upon the premises where such sign is located.
- (B) "Sign, off-premises." Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is offered.
- (C) "Sign, illuminated." Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.
- (D) "Sign, lighting device." Any light; string of lights, or group of lights located or arranged so as to cast illumination on a sign.
- (E) "Sign, projecting." Any sign which projects from the exterior of a building.

Social Clubs and Fraternal Organizations. 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 service which is customarily carried on as a business.

Solar Farm. (Commercial Solar Farm) An installation or area of land in which a large number of solar panels are set up in order to generate electricity.

Solicitor. "Solicitor" means the Solicitor of the Village of Albany.

Special district. A zoning district created to meet the needs of an area experiencing unusual problems, or one that is designed to meet special needs.

Structurally altered. Any change in the supporting members of a building such as bearing walls, columns, beams, girders, or in the dimension or configurations of the roof or exterior walls.

Structure. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures included buildings, mobile homes, walls, fences, and billboards.

Subdivision. The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development, or lease.

Swimming pool. A pool, pond, lake, or open tank containing at least 1.5 feet of water at any point and maintained by the owner or manager, designed for human use.

- (A) "Private." Exclusively used without paying any additional charge for admission by the residents and guests of a single household, a multifamily development, or a community, the members and guests of a club, or the patrons of a motel or hotel; and accessory use.
- (B) "Community." Operated with a charge for admission.

Thoroughfare, street, or road. Any vehicular way that:

- (A) Is an existing state, county, or municipal roadway;
- (B) Is shown upon a plat approved pursuant to law;
- (C) Is approved by other official action;
- (D) Is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; includes the land between the street lines, whether improved or unimproved.

Total lot coverage. The ratio of enclosed ground floor area of all buildings on a lot plus the ratio of area covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material on a lot to the horizontally projected area of the lot expressed as a percentage. Lot coverage does not include:

- (A) A fence that is less than one foot in width that has not been constructed with a footer;
- (B) A wood mulch pathway;
- (C) Landscaping.

Trailer, House. see "Mobile Home" or "Manufactured Home."

Trailer, travel. see "Recreational Vehicle."

Use. The purpose or activity for which land or buildings are arranged, designed, or for which lands or buildings are occupied or maintained.

Variance. An administrative exception to zoning requirements that should be granted only when a property owner would have a unique and unusual hardship, created by the physical characteristics of the land, if the ordinance is strictly and literally applied in their case.

Veterinary animal hospital or clinic. 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 on the premises for the treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity.

Violation. The failure of a structure or other development to be compliant with this Code or plan as approved.

Viticulture. The cultivation or culture of grapes especially for wine making.

Walkway. A public way, four feet or more in width, for pedestrian use only, whether along the side of a road or not.

Wireless Telecommunications Antenna. The physical device through which electromagnetic, wireless telecommunication signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

Wireless Telecommunications Facility. A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Wireless Telecommunications Tower. A structure intended to support equipment used to transmit and/or receive telecommunications signals, including monopoles, and guyed and lattice construction steel structures.

Yard. An open unoccupied space on the same lot with a building extending along the entire length of street or rear or interior lot line.

Yard, front. A yard extending between side lot lines across the front of a lot and from the front lot to the front of the principal building.

Yard, rear. A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

Yard, side. A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

Zoning Administrator. The Zoning Administrator is the person designated by this code to administer and enforce zoning regulations and related ordinances.

Zoning Certificate. A document signed by the Zoning Administrator, as required in the zoning code, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that acknowledges that such use, structure, or building complies with the provisions of the municipal zoning code or authorized variance there from.

Zoning District. A section or sections of the incorporated territory of the Village of Albany for which regulations governing the use of buildings and premises, the height of buildings, development standards, yards, lot areas, and other standards are uniform.

Zoning map. The map or drawing indicating boundaries of parcels and tracts of land within the zoning districts of the Village of Albany for the purpose of identifying uses for which those tracts and parcels can be legally utilized.

Albany Village Code Supplement
Chapter 155: Albany Zoning Code

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