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ARTICLE 6

PROCEDURES AND REQUIREMENTS FOR CONDITIONAL USE PERMITS; SUBSTANTIALLY SIMILAR USES; ACCESSORY USES

600 REGULATION OF CONDITIONAL USES.

The provision of Sections 600 to 610 inclusive of this Ordinance apply to the location and maintenance of any and all conditional uses.

601 PURPOSE.

In recent years, the characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that this Ordinance should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations a location, design, size, method(s) of operation, intensity of use, public facilities requirements, and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of Sections 602 to 610 of this Ordinance.

602 CONTENTS OF CONDITIONAL USE PERMIT APPLICATION.

Any owner, or agent thereof, of property for which a conditional use is proposed, shall be made an application for a conditional use permit, by filing it with the Zoning Inspector/Administrator, who shall within seven days transmit it to the Board of Zoning Appeals. Such application, at a minimum, shall contain the following information:

1. Name, address, proof of property ownership, and phone number of the applicant;
2. Legal description of the property;
3. Zoning district;
4. Description of existing use;
5. Description of proposed conditional use;
6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, utilities, signs, yards, landscaping

features, and such other information as the Board of Zoning Appeals may require;

7. A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties and with the comprehensive plan to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes, and/or vibration;
8. A list containing the names and mailing addresses of all owners of property within five-hundred (500) feet of the property in question;
9. A fee as established by Ordinance;
10. A narrative addressing each of the applicable criteria contained in Section 603.

603 GENERAL STANDARDS FOR ALL CONDITIONAL USES.

In addition to the specific requirements for conditionally permitted uses as specified in Section 604, the Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. Is, in fact, a conditional use as established under the provisions of Article 8 and appears on the Schedule of District regulations adopted for the zoning district involved;
2. Will be in accordance with the general objectives, or with any specific objective, of the Village's comprehensive plan and/or the zoning ordinance;
3. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
4. Will not be hazardous or disturbing to existing or future neighboring uses;
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise,

- smoke, fumes, glare, or odors, erosion, or contamination of water resources;
8. Will have vehicular approaches to the property, which shall be so designed as to not create an interference, with traffic on surrounding public thoroughfares;
 9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of a major importance;
 10. Loud speakers which cause a hazard or annoyance shall not be permitted;
 11. No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway, and no lighting shall shine directly on adjacent properties;
 12. All permitted installations shall be kept in a neat and orderly condition as so to prevent injury to any single property, any individual, or to the community in general;
 13. Will provide parking spaces as required in this Ordinance, provided that the Board of Zoning Appeals may increase or decrease the number of required spaces on the basis of the nature of the establishment and on the basis of generally known parking conditions in the neighborhood;
 14. Will have the design, location, and surface of the parking area subject to the approval of the Board of Zoning Appeals so as to reduce congestion, promote safety, and to reduce the impact on the surrounding neighborhood; and
 15. Will have all permanent buildings constructed and designed so as to conform with the setback and building design of existing uses in the district.

604 **SPECIFIC CRITERIA FOR CONDITIONAL USES.**

The following are specific conditional use criteria and requirements for those uses conditionally permitted in this Ordinance as provided for in the Conditional Uses Schedule of District Regulations. Nothing in this Section shall prohibit the Board of Zoning Appeals from prescribing supplementary conditions and safeguards in addition to these requirements in accordance with Article 6.

1. **Public Service (Maintenance) Facility** for equipment, sewer, wastewater treatment plants, etc. (All districts):
 - A. All permanent buildings shall be constructed and designed so as to conform with the setback and building design of existing uses in the district; and
 - B. Screening and plantings to buffer any structures, other than buildings from adjacent residential uses, are required.
2. **Church / (R-1 Residential Districts):**

- A. The lot area shall be adequate to accommodate the required off-street parking requirements of the church;
 - B. The church building shall be setback from any adjacent residential property line a minimum of fifty (50) feet;
 - C. Parking shall not be permitted within fifty (50) feet of any side or rear property line; and
 - D. A cemetery shall not be a permitted use in conjunction with the church.
3. **Cemetery / (R-2 Residential Districts):**
- A. The site shall have direct access to a major thoroughfare, which the Planning Commission determines is adequate to serve the size of the facility proposed;
 - B. Any new cemetery shall be located on a site containing not less than twenty-five (25) acres;
 - C. All buildings, including but not limited to, mausoleums and maintenance buildings, shall not be located within one-hundred (100) feet of any property line; and
 - D. All graves or burial lots shall be set back not less than fifty (50) feet from any property line.
4. **Attorney, Architect, Accountant, Engineer, Insurance Agency, Real Estate, Tax Preparation Service, and Bookkeeping Services Offices / (R-1 Residential Districts):**
- A. Parking spaces shall be provided as required in this Ordinance, provided that the Board of Zoning Appeals may increase or decrease the number of required spaces on the basis of the nature of the office and on the basis of generally known parking conditions in the neighborhood;
 - B. The design, location, and surface of the parking area shall be subject to approval of the Board of Zoning Appeals so as to reduce congestion, promote safety, and to reduce the impact on the residential character of the neighborhood; and
 - C. One (1) full sign, not exceeding four (4) square feet in area and mounted flush against the building, shall be permitted as outlined in Article 13 of this Ordinance.
5. **Veterinary Clinic, Kennel, and Grooming / (CG-1 Districts):**
- A. All outdoor pens and exercise runs shall be kept in a clean and sanitary condition and shall be screened from public view. A screening plan shall be submitted to the Board of Zoning Appeals for approval;

- B. Sanitation practices shall be adequate to assure that objectionable odors shall not be noticeable on or off the lot considering various wind conditions;
 - C. The applicant shall submit a written statement showing the measures and the practices he will use to reduce the noise level in the design of the building and the management or rotation of animals in outdoor exercise runs; and
 - D. No dead animals shall be buried on the premises and incineration of dead animals shall not create odors or smoke.
6. **Child Day Care Center/ (R-2, R-3, CG-1 Districts):**
- A. All outdoor playgrounds, tot lots, exercise areas, etc. shall be fully enclosed by a fence, the height and design which shall be approved by the Board of Zoning Appeals;
 - B. The applicant shall submit a parking and traffic circulation plan to the Planning Commission for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop off point for children that will not impede other traffic; and
 - C. One sign, not exceeding four (4) square feet in area, and mounted flush against the building, shall be permitted as outlined in Article 12 of this Ordinance.
7. **Funeral Home / (R-2, R-3 Residential Districts):**
- A. The buildings shall be designed so as to conform with the architectural character of the residential neighborhood; and
 - B. The applicant shall submit a parking and traffic circulation plan to the Planning Commission for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to the approval by the Planning Commission so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop off point for visitors that will not impede other traffic.
8. **Boarding Home, Rooming House / (R-2, R-3 Residential Districts):**
- A. No more than one (1) person shall occupy each one-hundred (100) square feet of sleeping room area;

- B. Fire escapes shall be provide as approved by the County fire codes and the Ohio Revised Code;
 - C. Fire exit instructions shall be posted in each sleeping room; and
 - D. All applicable provisions of the fire code shall be met and certification of such compliance by the appropriate official shall accompany the application.
9. **Tourist Home, Bed/Breakfast Home/(R-2, R-3 Residential Districts):**
- A. No more than two (2) adults shall occupy each sleeping room. Children under twelve (12) years of age are permitted in the same occupancy provided that no more than five (5) persons occupy one room.
 - 1) Fire escapes shall be provided as approved by the Board of Zoning Appeals;
 - 2) Fire exit instructions shall be posted in each sleeping room.
 - 3) All applicable provisions of the fire code shall be met and certification of such compliance by the appropriate official shall accompany the application;
 - 4) The facility shall be operated so that guests reside at the home for not longer than one (1) continuous week; and
 - 5) The facility shall contain not more than four (4) sleeping rooms for guests.
10. **Long Term Parking / (CG-1 and LI-1 Districts):**
See Section 1124.
11. **Residential Care Facilities / (R-2, R-3, CG-1 Districts):**
See Section 1133.
12. **Arcades / (CG-1 District):**
See Section 1107.
13. **Adult Entertainment / (CG-1 District):**
See Section 1116.
14. **Hobby Shops, Craft Shops / (R-1 District):**
See Section 1131.
15. **Heliport / (CG-1 and LI-1 Districts):**
- A. Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into a residential area; and
 - B. Such uses shall not be conducted closer than five-hundred (500) feet from any residential district, nor closer than two-hundred (200) feet from any structure used for human occupancy in any other district.

605 PUBLIC HEARING.

The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after it receives an application for a conditional use permit submitted by an applicant through the Zoning Inspector/Administrator.

606 NOTICE OF PUBLIC HEARING.

Before conducting the public hearing, as required in this text, and the Ohio Revised Code, written notices of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the hearing, and shall provide a summary explanation of the conditional use proposed as stated in Section 713.12 of the Ohio Revised Code.

607 NOTICE TO PARTIES OF INTEREST.

Prior to conducting the public hearing required in Section 605, written notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the date of the hearing, to all parties of interest, to include all property owners listed in the application, and the adjoining property owners. The notice shall contain the same information as required in Section 606 for the notices published in newspapers.

608 ACTION BY THE BOARD OF ZONING APPEALS.

Within thirty (30) days after the date of the public hearing required in Section 605, the Board of Zoning Appeals shall take one of the following actions:

1. Approve issuance of the conditional use permit by making an affirmative finding in writing that the proposed conditional use is to be located in a district wherein such use may be conditionally permitted, that all conditions for approval of such use in such district have been met, and that such use will neither result in significant negative impacts upon, nor conflict with, surrounding uses. Such written finding may also prescribe supplementary conditions and safeguards as specified in Section 609. Upon making an affirmative finding, the Board of Zoning Appeals shall direct the Zoning Inspector/Administrator to issue a condition use permit for such use which shall list all conditions and safeguards specified by the Board of Zoning Appeals for approval.
2. Make a written finding that the application is deficient in information or is in need of modification and is being returned to the applicant. Such finding shall specify the information and/or modifications which are deemed necessary.

3. Make a written finding that the application is denied, such finding specifying the reason(s) for disapproval. If an application is disapproved by the Board of Zoning Appeals, the applicant may seek relief through the Court of Common Pleas. Appeals from the Board of Zoning Appeals' decisions shall be made in the manner specified in section 1410.

609 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting approval for any conditional use, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformance with this Ordinance. Any violation of such conditions and safeguards, when made a part of the terms under of the conditional use is granted, shall be deemed a punishable violation of the Ordinance.

610 EXPIRATION OF CONDITIONAL USE PERMIT.

A conditional use permit shall be deemed to authorize only one particular conditional use, and said permit shall automatically expire if such conditionally permitted use has not been instituted or utilized within one (1) year of the date on which the permit was issued. If for any reason such use shall cease for more than two (2) years a new permit shall be required.

611 PROCEDURE AND REQUIREMENTS TO DETERMINE THAT A USE IS SUBSTANTIALLY SIMILAR.

Where a specific use is proposed that is not listed or provided for in this Ordinance, the Board of Zoning Appeals may make a determination, upon appeal, that the proposed use is substantially similar to a specific use that is listed or provided for in this Ordinance. If the Board of Zoning Appeals finds that a use is substantially similar to a specific use listed in this Ordinance, the substantially similar use is deemed to be a substantially similar permitted use in those districts where the specific use is a permitted use, and a substantially similar conditional use in those districts where the specific use is a permitted use and a substantially similar conditional use in those districts where the specific use is a conditionally permitted use.

In formulating a determination that a proposed use is a substantially similar use, the Board of Zoning Appeals shall follow the procedures relating to appeals and variances as specified in Article 4 of this Ordinance. Upon making a determination that a proposed use is substantially similar, the Board shall notify the Village Council of its decision and shall include in its written findings the reasoning upon which the decision is based. Unless the decision is rejected,

within thirty (30) days of its receipt by the Council, such substantially similar use determination by the Board shall become effective.

612 REMEDY BY APPLICATION FOR AMENDMENT.

If the Board of Zoning Appeals determines that a proposed use is not substantially similar, such determination shall not be appealed to the Village Council, but remedy may be sought by the appellant through the submission of an application for amendment as prescribed in Article 7.

613 STANDARDS FOR CONSIDERATION OF SUBSTANTIALLY SIMILAR USES.

The following standards shall be considered by the Board of Zoning Appeals when making a determination that a use is substantially similar to a permitted or a conditional use within a specific district:

1. The compatibility of the proposed use with the general use classification system as specified in this Ordinance.
2. The nature, predominant characteristics, and intensity of the proposed use in relation to those uses specified by this Ordinance as being permitted, or in the case of a conditional use, conditionally permitted, in that district.
3. The size, dimensional requirements, parking requirements, traffic generational potential, and other regulatory considerations normally associated with uses as specified in this Ordinance.

614 EFFECT OF DETERMINATION THAT A USE IS SUBSTANTIALLY SIMILAR.

Should a use be determined to be substantially similar to a specific permitted or conditionally permitted use provided for in this Ordinance, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has been found to be substantially similar.

615 RECORD OF SUBSTANTIALLY SIMILAR USES.

The Zoning Inspector/Administrator shall maintain as a public record a listing of all uses which have been determined to be substantially similar. For each such use, the record shall include the use as listed in this Ordinance, the use unlisted in this Ordinance, about which the determination of substantial similarity was made, and the dates of any actions thereupon by the Board of Zoning Appeals or the Rock Creek Village Council. This record shall also contain the same information for all uses which have been determined, not to be

substantially similar. The Zoning Inspector/Administrator shall consult this record in the process of issuing future permits.

616 REGULATION OF ACCESSORY USES.

The provisions of Sections 616 to 621, inclusive of this Ordinance, shall apply to the location and maintenance of accessory uses as herein defined.

617 PURPOSE.

It is the purpose of Sections 616 to 621, inclusive of this Ordinance, to regulate accessory uses in order to promote the public health, safety, and welfare. It is the intent of these Sections to permit such uses to be established and maintained in a manner which makes them compatible with principal uses and harmonious with uses upon adjacent properties.

618 DEFINITION.

"Accessory Use" means a use, object, or structure constructed or installed on, above, or below the surface of a parcel, which is located on the same lot as a principal use, object, or structure, and which is subordinate to or serves the principal use, object, or structure, is subordinate in area to the principal use, object, or structure, and is customarily incidental to the principal use, object or structure. Among other things, "Accessory Use" includes anything of a subordinate nature attached to, or not attached from, a principal structure or use, such as fences, walls, sheds, garages, parking places, decks, poles, poster panels, billboards, docks, seawalls, gazebos, pavilions, and boat houses. Except as otherwise required in this Ordinance, and accessory use shall be a permitted use.

619 GENERAL REQUIREMENTS.

Except as otherwise provided in this Ordinance, an accessory use or structure shall be permitted in association with a principal use or structure provided that:

1. It shall be thirty-five (35) percent, or less, of the gross floor area of the principal use or structure, except where additional space is needed to comply with off-street parking requirements;
2. It shall not contain or be used as a dwelling unit;
3. It shall not exceed eighteen (18) feet in height;
4. It shall meet all yard requirements of the principal use unless otherwise specified in this Ordinance.

620 DWELLINGS AS ACCESSORY USES.

Dwellings may be accessory uses in residential districts if located inside the principal home or if detached as a garage apartment, only if used as a residence by relatives or household servants and no rent is charged. Mobile home trailers shall not be permitted as accessory uses in any district.

621 ACCESSORY ELDERLY DWELLING UNIT.

Notwithstanding the provisions of Subsection 2 of Section 1001 of this Ordinance, an owner-occupied, single-family dwelling units may be converted to allow the incorporation of one additional dwelling unit for the exclusive occupancy of an elderly household, a member of which shall be an elderly person related to the owner of the single-family dwelling unit. Such accessory elderly dwelling unit shall be wholly contained within the existing principal building or shall be attached to it by a common wall, floor, or ceiling. The application for the zoning permit for such conversion shall be accompanied by an affidavit attesting to the owner's present occupancy of the dwelling unit and to the age and relationship of the elderly person.

622 RETAIL SALES AND SERVICES AS ACCESSORY USES.

Retail sales and services are permitted as accessory uses, when clearly incidental, to the principal use. With the exception of restaurants in conjunction with a motel, such uses shall be conducted wholly within the principal building, and without exterior advertising or display. These activities shall be conducted solely for the convenience of the employees, patients, patrons, students, or visitors, and not for the general retail public. In hospitals and clinics, these accessory uses may include drug stores, florists, gift and bookshops, and cafeterias. In institutional settings, office buildings, hotels, country cafeterias, and coffee shops, lounges, and beauty and barbershops, in such objects as antiques, curios, and crafts may be offered to the retail public.