

# **CODIFIED ORDINANCES OF SILVER LAKE PART ELEVEN - PLANNING AND ZONING CODE**

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## **CHAPTER 1101 Interpretation and Purpose**

### **1101.01 INTERPRETATION AND PURPOSE.**

The provisions of this Zoning Code shall be considered minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Code impose greater restrictions upon buildings, structures, uses or land than imposed or required by other codes, laws, ordinances, rules, regulations or restrictive covenants running with the land, this Code shall govern; and conversely, other regulations shall govern where they are more restrictive than this Code.

(Ord. 17-1994. Passed 6-6-94.)

### **1101.02 SEPARABILITY.**

If any section, paragraph, subdivision, clause, phrase or provision of the Zoning Code is adjudged invalid or unconstitutional, such section shall not affect the validity of this Zoning Code as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

(Ord. 17-1994. Passed 6-6-94.)

### **1101.03 COMPLIANCE WITH THIS CODE.**

No public officials of the Village of Silver Lake, hereinafter the "Municipality" shall issue permits or certificates for any building or use that would result in conflict with provisions of this Zoning Code. However, should such a permit or certificate in conflict with provisions of this Code be issued, it shall be deemed null and void. (Ord. 17-1994. Passed 6-6-94.)

## **CHAPTER 1103 Definitions**

### **1103.01 INTENT.**

The following terms shall have, throughout this Zoning Code the meaning given herein:

- (a) The word "shall" is to be interpreted as mandatory and not directory; the word "may" is permissive; the word "should" indicates that a certain standard is recommended and which may be required in the exercise of powers granted to a Village official or body.
- (b) "Village" means the Village of Silver Lake; "Commission" means the Planning and Zoning Commission; "Board" means the Board of Zoning Appeals; "Council" means the Council of the Village of Silver Lake; "Architecture Board" means the Architectural Board of Review; and "Inspector" means the Village Building Inspector.

(c) All words used in the singular include the plural, and words used in the present tense include the future tense unless the context clearly indicates the contrary.

(d) The term "such as" shall be construed as introducing a typical or illustrative enumeration of uses. A colon used to introduce an enumeration shall be construed as being the complete enumeration of uses and not illustrative.

(Ord. 17-1994. Passed 6-6-94.)

#### **1103.02 ACCESSORY USE OR BUILDING.**

"Accessory use" or "accessory building" means a subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or building. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.03 AREAS.**

(a) "Areas of buildings" means the area at the ground level of the main building and all accessory buildings measured from the outside surface of the exterior walls.

(b) "Area of lot" means the total horizontal area within the boundary lines of a zoning lot.

(c) "Coverage" means the area of a lot covered by the area of a building or buildings.

(d) "Dwelling unit area" means the sum of the gross floor areas above the basement level, measured from the interior face of exterior walls. The following shall be excluded: garages, porches, and storage rooms or buildings.

(Ord. 17-1994. Passed 6-6-94.)

#### **1103.04 BASEMENT.**

"Basement" means that portion of a building having at least one wall below ground level. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.05 BUILDING INSPECTOR.**

"Building Inspector" means the Building Inspector of the Village. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.06 CORNER LOT.**

"Corner lot" means a lot having frontage upon two or more streets at their intersection. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.07 DISTRICT.**

"District" means a section of the Village in which the regulations governing the use of buildings and premises or the height and area requirements of buildings are uniform. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.08 DWELLING AND DWELLING UNIT.**

(a) "Dwelling" means a building used exclusively for non-transient, residential use occupied by a single family.

(b) "Dwelling unit" means a space within a dwelling comprising living, dining, cooking, sleeping rooms, storage closets, as well as space and equipment for bathing and toilet facilities, all used by one family. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.09 ENGINEER.**

"Engineer" means the Village Engineer appointed by Council. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.10 FAMILY.**

"Family" means:

(a) An individual;

(b) Two persons who live together; or

(c) Two or more persons who live together in one dwelling unit and maintain a common household, related by blood, or marriage, or adoption. Domestic live in employees are excepted from this definition. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.11 GRADES.**

(a) "Established street grade" means the elevation established by the Municipality at the roadway centerline or curb in front of the lot.

(b) "Natural grade" means the elevation of the undisturbed natural surface of the ground prior to any excavation or fill.

(c) "Finished grade" means the elevation of the finished surface of the ground adjoining the building after final grading and normal settlement. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.12 HEIGHT OF BUILDING.**

(a) "Height of building" means the vertical distance measured from the average finished grade across the front of the building to the highest point, of the coping of a flat roof or the roof ridge line of a pitched roof.

(b) "Roof ridge line" means the line formed by the intersection of the two sloping sides of a pitched roof, representing generally the highest point of such roof. (Ord. 17-1994. Passed 6-6-94.)

**1103.13 HOME OCCUPATION.**

"Home occupation" means a gainful occupation, including a private office, clearly incidental and secondary to the use of the dwelling for residential purposes, conducted wholly within a dwelling and as limited by the regulations of Section [1133.05](#), infra. (Ord. 17-1994. Passed 6-6-94.)

**1103.14 INTERIOR LOT.**

"Interior" lot means any lot other than a corner lot. (Ord. 17-1994. Passed 6-6-94.)

**1103.15 LEAST DIMENSION.**

"Least dimension" means the shortest horizontal dimension of a yard. If two opposite sides of the yard are not parallel, the horizontal dimension between them shall be deemed to be the mean distance between them. (Ord. 17-1994. Passed 6-6-94.)

**1103.16 LOT.**

"Lot" means one or more parcels of land which are or could be collectively occupied by one dwelling and the accessory buildings or uses customary or incident to it, including such open spaces as are required by the Zoning Code, and which is designated as a separate parcel on a plat or deed in the records of Summit County, Ohio. (Ord. 17-1994. Passed 6-6-94.)

**1103.17 LOT LINES.**

"Lot lines" means the lines bounding a lot as defined in Section [1103.16](#). (Ord. 17-1994. Passed 6-6-94.)

**1103.18 LOT WIDTH.**

"Lot width" means the measurement of the lot at the set back line parallel to the street right of way. (Ord. 17-1994. Passed 6-6-94.)

**1103.19 NONCONFORMING USE.**

"Nonconforming use" means one that does not comply with the regulations of the use district in which it is situated, but existed prior to those regulations. (Ord. 17-1994. Passed 6-6-94.)

**1103.20 OCCUPANCY PERMIT.**

"Occupancy permit" means an official statement asserting that a given building or other structure or parcel of land, is in compliance with the provisions of all existing Codes, or is a lawfully existing nonconforming building or use and hence may be occupied and used lawfully for the purposes designated therein. (Ord. 17-1994. Passed 6-6-94.)

**1103.21 PRIVATE GARAGE.**

"Private garage" means an accessory structure for the use of the occupants of the lot on which the building is located. (Ord. 17-1994. Passed 6-6-94.)

**1103.22 PUBLIC NOTICE.**

"Public notice" means notice of the time and place of a hearing in accordance with the provisions in Section [10.05](#) of the Charter. (Ord. 17-1994. Passed 6-6-94.)

**1103.23 SET BACK LINE.**

"Set back Line" means the parallel line measured perpendicularly 50 feet from the nearest point of the street right of way, to the nearest point of the house or overhang behind which a building may be constructed, whichever is closest to the street, notwithstanding any set back line defined on plats or enactments prior to the enactment hereof. (Ord. 17-1994. Passed 6-6-94.)

**1103.24 SIGN.**

"Sign" means any visual communication designed to be seen from an outdoor location and used to convey a message. (Ord. 17-1994. Passed 6-6-94.)

**1103.25 STREET.**

"Street" means a public way dedicated to public use shown upon a plat or instrument of conveyance accepted by the Village for use and maintenance as a public street, and which affords the principal means of access to abutting property. (Ord. 17-1994. Passed 6-6-94.)

**1103.26 USE.**

"Use" means any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained, or occupied; or any occupation, business activity, or operation carried on in a building or other structure or on land. (Ord. 17-1994. Passed 6-6-94.)

**1103.27 VARIANCE.**

"Variance" means an adjustment of this Zoning Code permitted in instances where a literal application of these provisions would result in undue hardship as a result of some peculiar or unique condition or circumstances pertaining only to the zoning lot in question. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.28 YARDS.**

- (a) "Yard" means that portion of the open area on a zoning lot extending between a main building and the nearest lot line.
- (b) "Front yard" means the yard extending from the front wall of the building to the front lot line across the full width of the lot.
- (c) "Rear yard" means the yard extending from the vertical plane created by the nearest point of the rear of the building to the rear lot line across the full width of the lot.
- (d) "Side yard" means the yard extending between a side lot line and the vertical plane created by the nearest point of the building, and from the front yard to the rear yard; provided that from a corner lot, the side yard extends from the front yard to the rear lot line on the street side. (Ord. 17-1994. Passed 6-6-94.)

#### **1103.29 ZONING CODE.**

"Zoning code" means this code, or Ordinance 17-1994 passed June 6, 1994, as amended which is codified as Titles One to Five and Title Nine of this Part Eleven - Planning and Zoning Code. (Ord. 17-1994. Passed 6-6-94.)

### **CHAPTER 1107**

#### **Administration and Enforcement**

##### **1107.01 INTENT.**

It is the intent of these regulations to establish procedures which ensure compliance with this Zoning Code and which ensure equitable and expeditious handling of applications for subdivision approvals, building permits and occupancy permits, as further regulated in the Building Code, and Subdivision Regulations. Specifically, the purposes and relationships of these Municipal authorizations are as set forth below:

- (a) Subdivision Approvals. Subdivision approvals are required in order to certify that proposed lots comply with the Zoning Code and other applicable Municipal ordinances and requirements prior to consideration of an application for a building permit.
- (b) Building Permits. Building permits are established to authorize proposed construction or similar activity in compliance with the Building Code, Zoning Code, and other applicable municipal ordinances and requirements.
- (c) Occupancy Permits. Occupancy permits are established to authorize initial occupancy of a building or land subsequent to completion of activity in compliance with the Zoning Code, Building Code, and other applicable municipal ordinances and requirements. (Ord. 17-1994. Passed 6-6-94.)

##### **1107.02 APPLICABILITY.**

Subdivision approvals, building permits, and occupancy permits shall be required for activities listed below. No such activity, nor grading and excavation in preparation for such activity shall be commenced prior to the granting of the required authorization. Questions regarding applicability should be directed to the Building Inspector prior to the commencement of activity.

- (a) Subdivision Approval Required. For Subdivision of land to create one or more additional recorded lots or to alter existing lot lines.
- (b) Building Permit Required. For erection of a new building or other structure, and enlargement, additions, alteration, change, remodeling, demolition or moving of a building or other structure, any work involving the installation of one or more electrical, gas, water, sewer or heating lines, fences, walls, accessory uses or buildings, and the excavation or grading of land, and the installation or paving of a driveway. The installation of electrical, gas, water, sewer or heating service may be approved by the Building Inspector; excavation and grading shall be approved by the Village Engineer. All other work enumerated herein shall be approved by the Planning Commission.
- (c) Occupancy Permit Required:
  - (1) For initial occupancy of a building or land, and completion of an activity requiring approval from the Planning Commission.
  - (2) For nonresidential uses, occupancy which commences with a change in use. A permit will be required whether the occupancy is a main or secondary use, and an inspection shall be required on change of tenancy, business ownership, termination of vacancy, in addition to initial occupancy or completion of building.
  - (3) When an occupancy permit is required by the above, no person shall use or permit the use of any building or part thereof, until the Building Inspector has issued a certificate of occupancy stating that the building and premises comply with the Building Code and the provisions of the Zoning Code; except that nothing in this section shall prevent the continuance of the present occupancy or use of any premises or of any existing building.
  - (4) The Building Inspector shall issue a certificate of occupancy within five (5) working days after application has been filed in his office, provided that the building and premises, and all construction thereon, complies with the Building and Zoning Codes of the Village. (Ord. 17-1994. Passed 6-6-94.)

### 1107.03 CONDITIONS FOR ISSUANCE OF PERMITS.

- (a) Permits shall be issued only for applications, work, and uses in full compliance with the Zoning Code, Building Code and other applicable Municipal ordinances and requirements.
- (b) No permits shall be issued prior to granting of required variances by the Board of Zoning Appeals (see Chapter [1109](#)); and approvals by the other municipal officers, and bodies as required below.
- (c) No permits shall be issued for a building on a lot which is not located in a duly recorded subdivision, and is not located on a street, and for which improvements required by the Municipality have not been installed or acceptably guaranteed.  
(Ord. 17-1994. Passed 6-6-94.)

### 1107.04 APPLICATION REQUIREMENTS.

All applications for subdivision approvals, building permits or occupancy permits made by or on behalf of the owner shall be submitted to the Clerk of Council of the Village, and shall include the information hereinafter required unless found inapplicable by the approving authority. For an occupancy permit the information submitted with the building permit application should generally be sufficient. Each application shall be signed by the applicant, and submitted with a plan of the improvements in triplicate, prepared by an architect, engineer, or surveyor acceptable to the Planning Commission.

- (a) Narrative Information.
  - (1) Name, address, and telephone number of applicant and property owner.
  - (2) Address and parcel number(s) of the subject property.
  - (3) Legal description of the property, including any applicable easements or restrictions of record.
  - (4) Zoning district, existing and proposed use(s).
  - (5) For all uses proposed or retained; building and structure heights, number of parking spaces, total building coverage, and floor area.
- (b) Plans. All plans shall be drawn to scale, of one inch equals twenty feet, or smaller scale if required to show entire property, indicating the following minimum information. The approving authority may require additional information, or where applicable may delete certain of the following requirements.
  - (1) Subdivisions. See subdivision requirements in Title 7, *infra*.
  - (2) Building permits.
    - A. The address, and/or lot number, street name, dimensions of the lot, and north arrow.
    - B. Existing buildings located upon the lot.
    - C. The size and location of the proposed building, or addition for which the application is made.
    - D. Plan drawings of the building or addition (minimum 17 x 22 inches) for floor plans, elevations, section plans and plot plans drawn to the following scale:
      - 1. Floor plan 1/4" = 1'
      - 2. Elevation drawings 1/4" = 1'
      - 3. Section drawings 3/8" = 1'
      - 4. Plot plan 1" = 20'
    - E. The plans shall include existing grades and any changes in elevation which shall affect drainage from or onto adjacent property or abutting streets.
    - F. All dimensions must be shown including lot lines, required set back lines, planned set back lines, dimensions from lot lines to building faces, and to overhangs.
    - G. Existing or new property pins shall be indicated. If pins are not found they shall be placed.
    - H. Plot plan drawings shall show finished elevation of the final grade, footer, basement floor and first floor on new construction.
    - I. Landscape and open space plans, including tree locations and the location of trees to be removed.
    - J. Driveway locations, and the composition thereof. (Ord. 17-1994. Passed 6-6-94.)

### 1107.05 REVIEW AND APPROVAL PROCEDURES.

The following procedures are established to govern the review and approval of applications for subdivision approvals, minor subdivision approvals, building permits, and occupancy permits.

- (a) Acceptance by Building Inspector. The Building Inspector shall promptly review each application submitted to determine whether all required information has been provided. If the application is deemed insufficient, the Building Inspector shall promptly notify the applicant of necessary changes. If the application is deemed sufficient in terms of required information and the application fee has been paid, the Building Inspector shall officially accept the application on the date he makes that determination.
- (b) Transmittal for Review. Upon official acceptance of the application, the Building Inspector shall transmit copies to the Municipal bodies and officers responsible for review or approval, as stated below. The Building Inspector shall issue no permits prior to required approvals.
  - (1) Architectural Board of Review. The Architectural Board of Review shall review, approve or disapprove all building permit applications, which require Planning Commission approval. The Board shall review such applications

for compliance with the Building Code, general design standards, and design standards established in this Zoning Code.

(2) Planning and Zoning Commission. The Planning and Zoning Commission shall review, approve or disapprove all subdivision, and Building Permit Applications in accordance with the provisions of this Zoning Code, and the applicable provisions of the Building Code.

(3) Municipal Engineer. The Municipal Engineer shall approve or disapprove all subdivision applications, and any proposed change in grade which require a building permit or require a storm water management system as provided in Chapter [1161](#).

(4) Council. Council approval shall be required of all subdivision applications as hereinafter set forth.

(c) Each Municipal body or official which reviews and either approves or disapproves an application shall memorialize its decision, including a copy of the plan(s) submitted for approval, in a minute book kept for that purpose. A copy of each such memorial shall be delivered to the Clerk of Council of the Village, who shall maintain a record book of all actions by the various municipal bodies acting upon said applications. (Ord. 17-1994. Passed 6-6-94.)

#### **1107.06 EXPIRATION AND RENEWAL OF APPROVALS AND PERMITS.**

In order to ensure that the intent of Municipal authorizations is not altered by changing circumstances, the following regulations are established governing the expiration of approvals and permits.

(a) Building Permits. Building permits shall be issued for a one year period. A building permit may be renewed if there has been substantial work towards completion, and construction is being diligently pursued. The Building Inspector may renew the permit for a one year period.

(b) Occupancy Permits. Occupancy permits shall be issued for an indefinite period for residential uses, and upon any change in use for nonresidential uses. (Ord. 17-1994. Passed 6-6-94.)

#### **1107.07 FEES AND DEPOSITS.**

Fees, as set by Council, shall be imposed to cover routine administrative costs incurred by the Municipality in processing various applications. Monetary deposits shall be required to cover variable costs for consulting services and the advertising of hearings. No application shall be officially accepted and dated until all required fees and deposits have been paid.

(a) Council may establish fees for application for subdivisions, building permits, occupancy permits, variance and rezonings.

(b) For applications requiring approval by the Planning and Zoning Commission, or the Board of Zoning Appeals the applicant shall be required to deposit a sum as specified by ordinance sufficient to cover expenses incurred by the Municipality for advertisements, for services performed by the Municipal Engineer, Law Director, and other outside expenses related to review of an application. Such expenses shall be approved for payment by the Clerk of Council. Upon final disposition of the application, any remaining balance of the deposit shall be returned to the applicant. (Ord. 17-1994. Passed 6-6-94.)

### **CHAPTER 1109**

#### **Appeals and Variances**

##### **1109.01 INTENT.**

The Board of Zoning and Building Appeals is hereby established and constituted pursuant to [Article XI](#) of the Charter. The intent of this chapter is to provide a means to grant variances from the strict letter of this Zoning Code in instances of unnecessary hardship, or practical difficulty, where applicable; but not to alter provisions of this Code. It is also constituted to provide a means of approval from decisions of officials in matters relating to the Zoning Code, and Building Code. (Ord. 17-1994. Passed 6-6-94.)

##### **1109.02 JURISDICTION.**

(a) The Board of Zoning and Building Appeals shall hear appeals in the following matters:

(1) To hear and decide upon applications for variances from the terms provided in this Code subject to the standards established in Section [1109.07](#). The Board shall have the power to set conditions upon the exercise of any variance granted, but such conditions shall also be subject to the standards established in Section [1109.07](#).

(2) To hear appeals from decisions of the Building Inspector, or by any administrative officer on matters related to this Zoning Code for relief from any order, or decision, including the refusal, granting or revocation of permits.

(b) After the hearing the Board may decide appeals by affirming, reversing, wholly or in part, or modifying such order or decision. (Ord. 17-1994. Passed 6-6-94.)

##### **1109.03 APPLICATION FOR APPEALS AND VARIANCES.**

An appeal shall be taken to the Board of Zoning Appeals only if formal action has been taken by the Building Inspector or other officers or commission with regard to an application for a building permit, issuance of a stop order, specific referral or similar action provided:

(a) Within thirty days of such action, application for appeal from a decision shall be filed with the Clerk of Council; and,

(b) The application for appeal or variance shall include reference to the decision or section of this Zoning Code from which the appeal or variance is sought and all necessary data to support the application. (Ord. 17-1994. Passed 6-6-94.)

#### **1109.04 MEETINGS AND HEARINGS.**

- (a) The Board may establish rules for the conduct of its meetings; however, the lack of such rules shall not affect its jurisdiction, to hear appeals as provided herein.
- (b) All meetings shall be open to the public, and shall be held at Village Hall.
- (c) The Board of Zoning Appeals, upon receiving an application for a variance, or an appeal, shall hold a public hearing. The applicant for a zoning variance shall provide the names and addresses of owners whose properties abut, are across the street from, or are within 300 feet of the applicants property. Notice of the application shall be given to the affected property owners, by first class mail, which shall contain the date and time of the hearing and a brief summary of the application request. The Board shall hold a hearing not less than ten days after the notice thereof has been mailed to the affected parties. The failure to mail notices to owners whose names do not appear on the County Treasurer's tax duplicate list, as well as the failure of delivery of such notice, shall not invalidate any action of the Board. The expense of notifications shall be paid for by the applicant.
- (d) In the event that a request is made for a variance which is greater than fifteen (15%) percent of the required set back, side line, or rear yard restriction, notice shall be given to all property owners within 600 feet of the applicant's property, as provided in the previous section. Notice shall also be given to the Mayor, Council, the Solicitor, and Village Engineer. The Board shall be required to hold at least two hearings, at least three days apart, before granting such a variance. (Ord. 17-1994. Passed 6-6-94.)

#### **1109.05 QUORUM AND VOTE.**

A majority of the members of the Board of Zoning Appeals shall constitute a quorum for the transaction of business, and the affirmative vote of three members of the Board shall be necessary for any official decision. Failure to receive three affirmative votes will constitute a denial of the application pending before the Board and a maintenance of the status quo or previous decision being reviewed. Each appeal shall be acted upon by the Board within thirty (30) days of its lawful receipt. (Ord. 17-1994. Passed 6-6-94.)

#### **1109.06 RECORD OF DECISIONS.**

The Board shall keep minutes of its proceedings, and note the presence or absence of each member and record their votes on each matter submitted to it. The Board should note its reasons for its decisions, and submit them with its decision. Immediately following the Board's decision, such record including conditions prescribed by the Board shall be filed and posted for two weeks in the office of the Clerk of Council, and copies shall be mailed forthwith to each interested party. Any permit issued in pursuance of any decision of the Board shall have incorporated therein any special conditions prescribed by it. (Ord. 17-1994. Passed 6-6-94.)

#### **1109.07 REASONS FOR GRANTING VARIANCES.**

The Board of Zoning Appeals shall have the power, in specific cases, to vary the application of certain provisions of this Zoning Code in order that the public health, safety, convenience, comfort and general welfare may be safeguarded and substantial justice may be done. It is the applicants burden to establish the hardship in each case. The following are reasons to grant a variance:

- (a) Where unreasonable hardships would result from the literal application of the provisions of this Code. However, hardships which are unavoidable such as theoretical loss or limited possibilities of economic advantage, are not unreasonable hardships. Likewise, hardship based on conditions created by the owner is not an unreasonable hardship. It must be found that there are peculiar and special hardships as applicable to the property involved which are separate and distinct from general hardships in the district; and
- (b) Where exceptional circumstances or conditions, only applicable to the property involved or to the intended use of the property, exist and do not apply to other property within the same district; and
- (c) Where granting a variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located. The mere existence of an unreasonable hardship or other exceptional circumstance, is not, itself, conclusive evidence for granting of a variance, for such hardship must be balanced against the present conditions and extent to which such a variance would interfere with the rights of adjacent property owners, and the appropriate future development of those properties; and
- (d) Where the granting of a variance will not be contrary to the purpose, intent, and objectives of this Code. A variance merely permits that which is contemplated in this Code for unreasonable hardships and exceptional circumstances.

In responding to an area variance (e.g. setbacks, height), it is the applicant's burden to prove that an area zoning requirement unreasonably deprives him of a permitted use of his property, i.e. the owner must show he has encountered practical difficulties in the use of his property. While no single factor controls in determination of practical difficulties, the factors to be considered and weighed include, but are not limited to:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (2) Whether the variance is substantial;
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) Whether the variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage);
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. (Ord. 17-1994. Passed 6-6-94.)

**1109.08 LAPSE OF VARIANCES.**

- (a) If, after, the expiration of 6 months, no substantial construction has occurred in accordance with the terms and conditions for which a variance was granted, the variance shall revert to those in effect before the variance was granted, and such fact shall be noted on the record of the Board.
- (b) The Board may attach conditions to the grant of any variance, which conditions shall run with the land and which shall be enforced as would any zoning requirement. (Ord. 17-1994. Passed 6-6-94.)

**CHAPTER 1133  
Residential District**

**1133.01 INTENT.**

It is the intent of these district regulations to promote development of esthetically pleasing, well spaced, and architecturally sound housing, under conditions which maximize safety and good building principles, and minimize environmental and other disturbances to neighboring residents. (Ord. 17-1994. Passed 6-6-94.)

**1133.02 PERMITTED USES.**

- (a) Main Use - One single family detached dwelling per lot.
- (b) Accessory Uses.
  - (1) Private garages, driveways, and walkways.
  - (2) Private swimming pools and other private recreational uses.
  - (3) Landscape features and private gardens.
  - (4) Fences and walls.
  - (5) Central air-conditioner, heat pumps, storage sheds and roof top antennas, except satellite dishes.
  - (6) Home occupations. (Ord. 24-2001. Passed 4-16-01.)
  - (7) Public utility equipment and facilities, including telecommunications equipment and facilities (except wireless telecommunications facilities as defined in Section [1137.08](#)), only when in compliance with all applicable laws for such facilities. (Ord. 24-2001. Passed 4-16-01.)

**1133.03 AREA, YARD AND HEIGHT REQUIREMENTS - MAIN BUILDINGS.**

Lots in the Residential District shall be occupied by no more than one residential building per lot and further, shall be developed and maintained in accordance with the following regulations, except as modified by the provisions herein for legally established nonconforming uses. The following are all minimum dimensions, unless otherwise noted.

- (a) Lot size, minimum square feet 20,000
- (b) Lot width at building line 120 feet
- (c) Street frontage 75
- (d) Lot depth 150
- (e) Coverage by main building, maximum 18%
- (f) Front yard depth 50
- (g) Side yard 10
- corner lots, from side street 30
- (Ord. 95-1997. Passed 12-15-97.)
- (h) Rear yard depth (except as provided in (k) below) 40
- (Ord. 83-2007. Passed 11-19-07.)
- (i) Dwelling Unit Area (sq. ft.)
  - 1 story building 1,500
  - 2 story building 2,000
- (j) Height. The height of a dwelling shall not exceed two and one half stories or thirty feet above finished grade. Chimneys and antennas located on a dwelling may exceed this limitation but are limited to a maximum of 15 feet above the roof line. (Ord. 95-1997. Passed 12-15-97.)
- (k) The front of any residence shall be within a setback variation up to 20% (50 foot setback would allow up to 20 feet, etc.) if any adjacent residence and no less than (f) above. Rear yards abutting Silver Lake, Crystal Lake and the Cuyahoga River, shall comply with the riparian setback development standards in this Code. Such abutting rear yards shall also maintain a rear yard equal to 50% of the lot depth unless a variance is granted. (Ord. 83-2007. Passed 11-19-07.)

### **1133.04 AREA, YARD AND HEIGHT REGULATION; ACCESSORY USES.**

Accessory uses shall not be located in required yards except as permitted herein.

(a) Garages and other Accessory Uses. Each residential building shall have an attached garage, providing a minimum of 240 square feet of area, but providing storage for not more than three private motor cars.

(1) Garages unattached to the dwelling may be permitted, but only as provided below, and shall be located in the rear yard, at least 15 feet from any main building.

(2) All accessory buildings, including unattached garages, shall be located in the rear yard and at least ten feet from any lot line. Accessory buildings shall not exceed fifteen feet in height above the finished grade.

(3) The combined floor area of all accessory buildings on a lot, including unattached garages, shall not exceed 500 square feet or sixty percent (60%) of the gross ground coverage of the principal building, whichever is less. The combined total of all accessory buildings shall not cover more than twenty percent (20%) of the rear yard.

(4) All accessory buildings or structures, including unattached garages, over 144 square feet in gross ground coverage, are conditionally permitted uses subject to approval of the Planning Commission pursuant to Section [1133.06](#), with notice to neighboring property owners in the manner provided in Section [1109.04\(c\)](#).  
(Ord. 88-1996. Passed 12-2-96.)

(b) Driveways. Each residential building shall be served by a driveway located on the same lot and at least ten feet in width. Such driveway may be located in any required yard with the exception of side yards less than twelve feet in width. Additionally, each driveway shall be set back at least two feet from any residential building, except at the point of access to an attached garage, and a minimum distance of six feet from a driveway on an adjoining lot.

(c) Fences, Walls and Hedges. Fences, and walls shall be of uniform design and shall be well maintained. No fence, wall or hedge shall be in excess of 40 inches above established grade in a front or side yard abutting a street, whether the street is graded or not. No fence, wall or hedge shall obstruct the vision of street traffic.

Wire fences and solid fences shall only be permitted in rear yards. Barbed wire fences and electric fences are prohibited within the Village. Fences in side and rear yards other than those abutting a street shall not be in excess of 7 feet in height.

(d) Recreational Uses. All recreational uses are conditionally permitted uses subject to approval of the Planning Commission, with notice to neighboring property owners in the manner provided in Section [1109.04\(c\)](#).

(1) Swimming pools. Swimming pools shall be located only in rear yards and shall be a minimum distance of ten feet from each lot line. Any swimming pool in which water may collect in excess of 1 ½ feet shall be enclosed by a wall or fence not less than 5 feet in height. A building or existing wall may be used as part of the enclosure. All gates providing access to the pool or pool area shall be of self-closing and self-latching construction with the latch at least 4 feet from ground level, shall be designed to permit locking and shall be kept locked when the pool is not in actual use or is unattended. In no case shall the fence include design features that would facilitate its ascent or permit the passage of a child's body as determined by the Building Inspector.

(2) Recreation courts. Tennis, basketball and other recreation courts shall be located only in rear yards and shall be set back from each lot line a minimum distance of ten feet, as measured from the enclosing fence, or if no fence is required, from the edge of the court surface. All lighting shall be compatible with the neighborhood, and subject to Planning Commission approval.

Tennis courts shall be enclosed by a metal link or mesh fence at least nine feet in height but not more than 12 feet in height above finished grade. None of the above regulations shall be deemed to prohibit placement of a basketball backboard on a garage wall, or roof.

(3) Other recreational uses. Other recreational uses such as hot tubs, skate board ramps, and any other recreational facility requiring construction thereof are conditionally permitted upon application to the Planning and Zoning Commission, and shall require a building permit based upon plans submitted by the owner or agent of the owner in compliance with the provisions above. (Ord. 17-1994. Passed 6-6-94.)

(e) Satellite Receivers, Dishes and Antennas.

(1) All antennas (including amateur radio antennas and satellite receivers and dishes), for which a building permit is required under Chapter [1361](#) of the Building Code of the Village of Silver Lake, are conditionally permitted upon application to and approval by the Planning and Zoning Commission, with notice to neighboring property owners in the manner provided in Section [1109.04\(c\)](#).

(2) Each application for approval of an antenna shall provide the information and comply with the other requirements of Chapter 1361 of the Building Code of the Village of Silver Lake. (Ord. 91-1995. Passed 9-18-95.)

(f) Accessory Uses Proximate to Silver Lake, Crystal Lake and the Cuyahoga River.

(1) Notwithstanding regulations in Section [1133.04](#) to the contrary, accessory uses on lots in the Residential District abutting the shoreline of Silver Lake and Crystal Lake shall be located no closer than forty feet from the property line abutting either lake.

(2) Accessory uses on lots in the Residential District abutting the shoreline of the Cuyahoga River shall be located no closer than forty feet of the river's normal high water mark.

(3) All accessory uses on lots in the Residential District abutting the shoreline of Silver Lake, Crystal Lake and the Cuyahoga River located to the rear of main buildings shall be conditionally permitted uses subject to the approval of the Planning Commission, with notice to neighboring property owners in the manner provided in Section [1109.04\(c\)](#).

### **1133.05 HOME OCCUPATIONS; RENTING ROOMS.**

(a) Home Occupations. Home occupations, including home offices are only permitted if in conformance with the following standards:

- (1) Employment. The occupation is conducted only by members of the family residing in the dwelling.
- (2) Area. The occupation is conducted wholly within a dwelling, and the space used occupies no more than one room of the dwelling. No accessory building or structure shall be utilized for the occupation.
- (3) Manufacturing Restricted. No goods may be manufactured, with the exception of hand made crafts.
- (4) Environmental impact. No use shall be permitted which creates noise, dust, odor, glare, smoke, vibration, electrical interference, fire hazard or any other hazard to an extent or frequency greater than that usually experienced in an average residential occupancy in the district in question.
- (5) Exterior appearance. The residential character of the building in which the occupation occurs shall not be diminished. No sign or other outward evidence of the occupation shall be displayed.
- (6) The following businesses are prohibited in a dwelling (which list is not exclusive):
  - A. Any sales of goods or services to the public which require the customer to enter upon the premises.
  - B. Any sale of goods or services to the public which utilize the home and/or its premises for the placement of tangible inventory for sale or installation.
  - C. Repairs to vehicles.
  - D. Towing of vehicles.
  - E. Nursing homes.
  - F. Child care facilities which are subject to state licensing requirements.

(b) Renting of Rooms Prohibited. No one shall rent a room in a residential dwelling within the Village.  
(Ord. 17-1994. Passed 6-6-94; Ord. 89-1996. Passed 12-2-96.)

### **1133.06 CONDITIONAL USE STANDARDS.**

(a) The Planning Commission shall review an application for a conditional use, if such use is specifically authorized in this Code, in terms of the following standards, and must find that the use or uses proposed:

- (1) Will be in accordance with the provisions, intent and purposes of the Zoning Ordinance;
- (2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the character of the general vicinity as zoned in the Zoning Ordinance;
- (3) Will not be hazardous or disturbing to neighboring uses;
- (4) Will be served by essential public facilities and services;
- (5) Will not create excessive additional requirements at public cost of public facilities and services, and will not be detrimental to the economic welfare of the community;
- (6) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of the creation of adverse traffic conditions or the production of excessive noise, smoke, fumes, glare, odors, dust, gas, flame, vibration, etc.

(b) The Planning Commission may impose such additional conditions and safeguards as it may deem necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of the Zoning Ordinance will be observed. A conditional use shall not be established unless approved the Planning Commission as above.

(Ord. 17-1994. Passed 6-6-94.)

### **1133.07 SITE PLAN REVIEW FOR UTILITIES.**

No expansion of an existing use dedicated in Section [1133.02\(b\)\(7\)](#) above shall be permitted, nor shall a new use described in Section [1133.02\(b\)\(7\)](#) above be established unless a site plan for the proposed development is approved by the Planning Commission and Council, utilizing the standards set forth in Section [1133.06](#). (Ord. 24-2001. Passed 4-16-01.)

## **CHAPTER 1151**

### **Architectural Review**

#### **1151.01 PURPOSES.**

(a) Generally. The Planning Commission shall serve to protect and preserve the value, appearance and use of property on which buildings are constructed or altered, to maintain a high character of community development, to protect the public health, safety, convenience and welfare and to protect real estate within the Municipality from impairment or destruction of value. Such purposes shall be accomplished by the Commission by regulating, according to accepted and recognized architectural principles, the design, use of materials, finished grade, lines, dimensions, orientation and location of any main or accessory building, or fences, to be created, moved, altered, remodeled or repaired, subject to the provisions of the Zoning and Building Codes and other applicable ordinances of the Municipality, in reviewing, regulating and approving building plans, the

Commission shall consider and take cognizance of the development of adjacent, contiguous and neighboring buildings and properties for the purpose of achieving safe, harmonious and integrated development of related properties.

When requested, the Commission shall act in an advisory capacity to any officer, board or commission of the Municipality. In fulfilling any such request, the Commission may require drawings, plans, specifications or studies to be submitted according to the provisions of this chapter for its evaluation and recommendations.

(b) Preservation of Property Values and General Welfare of the Village. Council hereby finds and determines that the establishment of restrictions on the construction, erection, alteration, removal, moving or demolition of buildings and structures is vital to the preservation of the educational, cultural, historic, economic, and general welfare of the Municipality and of its residents. Council further finds and determines on the basis of its own observation and knowledge that the establishment of architectural regulations will promote the following goals:

- (1) Protection and enhancement of the attractiveness of the Municipality as it relates to residents and visitors, serving as a support and stimulant to the economic well being of the Village, and thereby strengthening the economy of the Municipality and its residents;
- (2) Stabilization and increase of property values within the Municipality;
- (3) Compatibility of any and all construction of new improvements and buildings or modifications of existing structures with the architectural character of the Village;
- (4) Enhancement of the visual and aesthetic character, diversity and interests of the Village;
- (5) Preservation and further enhancement of civic pride of the residents of the Village in the beauty of the Municipality and in the notable accomplishments of the past; and
- (6) Protection of the property rights of all owners. (Ord. 13-1997. Passed 3-17-97.)

### **1151.02 DEFINITIONS.**

As used in this chapter, unless the context clearly requires otherwise:

- (a) "Alteration" means any appreciable change in the external architectural features of any structure or building, visible from a public way or from adjoining property.
- (b) "Applicant" means any person, association, partnership or corporation or other similar entity who or that applies for a building permit in order to undertake any construction, erection, alteration, removal, moving or demolition.
- (c) "Planning Commission" means the Planning Commission of the Municipality.
- (d) "Council" means the Council of the Municipality.
- (e) "Exterior architectural feature" means the architectural style and general arrangement of the exterior of a structure, including the type and texture of building materials, all windows, doors, lights, signs and other fixtures appurtenant thereto.
- (f) "Architectural significance" means that which has a special aesthetic interest or value as part of the development, heritage or cultural character of the Municipality.
- (g) "Historic landmark" means any individual building or structure determined by the Planning Commission to be historically and/or architecturally significant.
- (h) "Municipality" means the Municipality of Silver Lake as now or hereinafter constituted.
- (i) "Neighboring structure" means any existing structure or any structure for which a building permit has been issued which is situated on any one of the following lots:
  - (1) Any lot within three lots, on the same side of the street on either side of the proposed construction, without regard to intersecting street lines;
  - (2) Any lot within three lots of the property directly across from the proposed construction on the opposite side of the street without regard to intersecting street lines; or
  - (3) Any lot within two lots of the proposed construction, provided such lot is abutting a street intersecting the street upon which the proposed construction will be located and that the front elevations of the subject structures will be approximately ninety degrees to each other.
- (j) "Owner" means the owner of record, and the term includes the plural as well as the singular.  
(Ord. 13-1997. Passed 3-17-97.)

### **1151.03 DUTIES AND POWERS.**

- (a) The Planning Commission shall have the power to review building plans, landscape plans, and sign applications referred to it by the Building Inspector, Zoning Inspector or Council.
- (b) The Building and Zoning Inspectors shall review all documents submitted for a building permit and the applicant shall satisfy the Inspectors that the documents comply with the requirements hereinafter defined and with all other ordinances of the Municipality that have application to the issuance of building permits. The Building and Zoning Inspectors shall reject any application that does not conform to these requirements. If the application is acceptable to the Building and Zoning Inspectors, the Commission shall review such application at a public meeting within twenty-one days of its receipt by the Chairman. Where field inspections or detailed reviews are necessary, an application may be tabled for up to twenty-one days; where other unusual circumstances dictate, additional time may be taken by the Commission upon notice to the applicant. Within seven days subsequent to its decision, the Commission shall report in writing to the Building and Zoning Inspectors its actions together with the reasons therefor. Such actions shall consist of an "approval", "disapproval", or "conditional approval" based on

stipulated revisions. If the Commission is notified by the property owner in writing within thirty days of objections to the stipulated revisions of a conditional approval, the Commission shall again review the application and issue either an unqualified “approval” or “disapproval” within thirty days from the receipt of such letter by the Chairman. The Building and Zoning Inspectors shall then date and stamp the application as “approved” or “disapproved”, advising the applicant in writing in the latter case, of the reasons for such disapproval. (Ord. 13-1997. Passed 3-17-97.)

#### **1151.04 REVIEW PROCEDURES; LOOK-ALIKE STRUCTURES.**

- (a) No residential, or commercial building permit shall be issued unless the applicant establishes for the Commission that:
- (1) The applicant has complied with Sections [1151.04](#) and [1151.05](#) and the proposed structure is in compliance with subsection (b) hereof;
  - (2) The exterior architectural character and functional plan of the proposed structure, when erected, will not be at such variance with existing structures, or structures currently being built, in the immediate neighborhood or zoning district as to cause substantial depreciation in the property values of existing structures or structures currently being built;
  - (3) The site utilization and orientation of the proposed structure are reasonably integrated with existing roads, drives, vehicular traffic patterns and pedestrian walkways abutting the property upon which the proposed structure is to be built; and
  - (4) The proposed structure does not violate the “look-alike” provisions of subsection (b) hereof.
- (b) No building permit shall be issued in any residential district for an application to erect, construct, alter or remodel any building or structure which shall be alike or substantially like any neighboring structure, hereinbefore defined, then in existence or for which a building permit has been issued. The Commission shall approve such application unless the applicant fails to establish that no more than two of the following exist with respect to any such neighboring structure:
- (1) The roof style of the proposed construction is similar to the structure it resembles;
  - (2) The roof pitch of the proposed construction is less than three vertical units in twelve from the structure it resembles;
  - (3) More than half of the exterior surface materials of the proposed structure are the same as the structure it resembles;
  - (4) The relative location of an attached garage, porch, portico, breezeway, gable or other major design feature attached to the proposed structure is similar to the structure it resembles; or
  - (5) The relative location of entry doors, windows, shutters or chimneys in the proposed construction is similar to the structure it resembles. (Ord. 13-1997. Passed 3-17-97.)

#### **1151.05 SUBMISSION REQUIREMENTS.**

Each application for a building permit shall be submitted to the Planning Commission with documents which shall include and conform to the following requirements for architectural review:

- (a) There shall be a site plan or plot plan showing the plot configuration and its perimeter dimensions with property lines and pin locations, all structures on the site with locating dimensions, the location of all structures adjacent to the site within fifty feet of the property line, and all vehicular drives, roads, related parking areas, main walks, walls, fences and major existing landscaping. In addition, locations and names of adjacent streets, a north arrow, the first floor level and existing and finished grade elevations at each corner of new construction and at each corner of the site shall be indicated.
- (b) Four elevations shall be shown, including a front, rear and two side elevations, together with additional view or cross-sections, if necessary, to completely indicate the exterior appearance of the structures. All elevations shall be drawn to the same scale, which shall not be less than one-quarter of an inch to the foot, except that the front elevation may be drawn to a larger scale. Each elevation shall show the accurate location of windows, doors, shutters, chimneys, porches and other architectural features, all materials and finishes, and an accurate finish grade line.
- (c) There shall be a completely dimensioned floor plan of each level of the construction, drawn to the same scale as the front elevations.
- (d) Additional details to show unusual construction shall be included. (Ord. 13-1997. Passed 3-17-97.)

#### **1151.06 ADVICE OF A CONSULTANT.**

When requested by official action of the Planning Commission, the Mayor is hereby authorized and directed to employ a qualified, licensed architect to consult with and assist the Commission on any and all matters set forth in this chapter. Such consultations and assistance shall be strictly advisory and the Commission will not be bound by the architect’s recommendations or opinion. (Ord. 13-1997. Passed 3-17-97.)

#### **1151.07 APPEALS.**

An appeal to Council may be taken by any person aggrieved, or by any officer of the Municipality affected, by any decision of the Planning Commission which applies or interprets these architectural regulations. Such appeal shall be taken within ten days after the decision has been filed with the Clerk of Council, by filing with the Clerk and with the Planning Commission, a notice of appeal specifying the grounds therefor. The Secretary of the Planning Commission shall forthwith transmit to the Clerk all papers constituting

the record upon which the action appealed was taken. Council shall consider the appeal at the meeting next following receipt of the appeal by the Clerk. (Ord. 13-1997. Passed 3-17-97.)

#### **1151.08 INTERPRETATION.**

Unless otherwise specifically stated herein, it is not intended that this chapter repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance or any rule or regulation previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises than is imposed or required by such regulations, this chapter shall control. This chapter is to be construed liberally to secure the beneficial interests and purposes thereof. (Ord. 13-1997. Passed 3-17-97.)

#### **1151.99 PENALTY; EQUITABLE REMEDY.**

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) of each offense. A separate offense shall be deemed committed each day during or on which a violation or non-compliance occurs or continues. Notwithstanding the foregoing penalty provision, the Municipality shall have the authority to institute appropriate proceedings to prevent the continued violation of this chapter. (Ord. 13-1997. Passed 3-17-97.)

### **CHAPTER 1153 Landscaping Regulations**

#### **1153.01 INTENT.**

It is the intent of these regulations to achieve, among others, the following purposes:

- (a) To ensure that the open areas on developed lots are attractively landscaped and maintained.
- (b) To ensure that residential areas are adequately screened and offered from adjoining nonresidential developments.
- (c) To preserve attractive visual landscapes along public roads. (Ord. 17-1994. Passed 6-6-94.)

#### **1153.02 APPLICABILITY.**

The regulations of this chapter shall apply to all zoning districts. (Ord. 17-1994. Passed 6-6-94.)

#### **1153.03 LANDSCAPING REQUIREMENTS.**

(a) General Landscaping Requirements. Any portion of a developed lot not used for permitted main and accessory uses shall be landscaped with vegetative ground cover, shrubs and trees in good condition. In the development of property, existing trees and significant vegetation shall be retained wherever feasible, and all applications for a building permit shall identify specifically by diagram all existing trees and significant vegetation to be affected by the development.

(b) Residential Landscaping Requirements. An occupancy permit shall not be issued unless a plan which demonstrates compliance with the following landscape requirements has been approved by the Zoning Inspector.

- (1) All portions of a lot not used for permitted structures, parking areas, driveways or walkways shall be properly planted with grass or other suitable vegetative ground cover and shall be maintained in good condition.
- (2) Existing significant vegetation and trees shall be retained wherever feasible in the development of new dwellings, or the expansion of existing dwellings. An application for a building permit shall be reviewed by the Planning Commission in accordance with the general landscaping requirements above. (Ord. 100-1997. Passed 12-15-97.)

#### **1153.04 STREET TREES.**

(a) Tree Lawn. In all new subdivisions requiring the opening of streets, a tree lawn consisting of a strip of grass-covered land at least seven feet in width shall be reserved in a location between the roadway curb and the sidewalk adjacent to each lot where a sidewalk exists or is proposed.

(b) Tree Types. In all new subdivisions requiring the opening of streets, trees shall be planted so that for every lot there is at least one tree on each tree lawn abutting a street. The minimum diameter, size and type of trees shall be established by the Park Board of Silver Lake. No other trees than those specified by the Park Board may be planted in the tree lawn. The requirement of tree plantings shall not be applied to lots which have an existing mature tree so situated in a yard that it would impede the growth of a tree located on the tree lawn. Trees which have such undesirable characteristics as excessively thick foliage, low branches, unpleasant odors, susceptibility to disease or large root systems shall not be planted on any land within ten feet of a public right of way. (Ord. 17-1994. Passed 6-6-94.)

#### **1153.05 PARKING AREAS.**

In all non-residential districts and for all changes in the extent or nature of parking areas a continuous landscaped strip of evergreen shrubs planted at intervals of not more than five feet on centers and at initial height of at least two feet shall be provided and maintained along any side of a parking area which is located in a required yard abutting a public road. The Planning and Zoning Commission may permit alternative forms of planting if it determines that the required planting is either infeasible or not in keeping with an area's character. (Ord. 17-1994. Passed 6-6-94.)

### **1153.06 PERIMETER SCREENS.**

For all new developments, a planted area designed to screen views and noise shall be provided along certain lot lines separating use which are not fully compatible. The location and nature of such perimeter screens shall be in accordance with the following regulations.

- (a) Nature of Screen. The planted area shall provide a continuous visual screen to an initial height of at least eight feet. The screening shall be achieved in a manner deemed appropriate by the Planning and Zoning Commission. Examples of appropriate methods are: earthen mounding topped by shrubbery, evergreen plantings, or a combination thereof.
- (b) Exceptions. The screening requirement shall not apply where natural or man-made barriers exist which provide screening generally equivalent to that required or where they would obstruct visibility as set forth in Section [1153.08](#). (Ord. 17-1994. Passed 6-6-94.)

### **1153.07 UTILITY USES.**

Electrical substations, telephone exchanges, and other utility uses located in any district shall be governed by the following landscaping and fencing requirements.

- (a) Landscaping. Utility uses shall be substantially screened from view by shrubbery and/or trees, as approved by the Building Inspector.
- (b) Fencing. Utility uses shall be completely enclosed by a fence or wall not less than five feet and not more than 8 feet in height. The design and construction of the fence shall be approved by the Planning Commission and the Architectural Board of Review in consideration of factors of safety and visual impact or nearby uses. (Ord. 17-1994. Passed 6-6-94.)

### **1153.08 VISIBILITY AT INTERSECTIONS.**

At each intersection an unobstructed sight line shall be maintained above two and one-half feet of the curb level for a sight distance not less than 100 feet. The police chief, or Service Director shall have the authority to determine if any landscape feature or planting interferes with the visibility at an intersection. (Ord. 17-1994. Passed 6-6-94.)

## **CHAPTER 1157**

### **Nonconforming Buildings and Uses**

#### **1157.01 INTENT.**

It is the intent of this Code to permit nonconforming uses to continue until they are removed or abandoned although they are considered incompatible with the permitted uses in the districts involved. It is further the intent that the nonconformities shall not be enlarged upon, expanded or extended, that nonconforming uses be changed only to a more restrictive use, and that the rebuilding of a nonconforming building be regulated if substantially destroyed. Furthermore, the continuation of a lawful nonconformity shall not be construed as a reason for permitting nonconformities specifically not permitted in this Code. (Ord. 17-1994. Passed 6-6-94.)

#### **1157.02 NONCONFORMING USES, BUILDINGS, AND ACCESSORY USES.**

A building or other structure existing at the time this Zoning Code became effective but which does not conform as to area or width of lot, yard dimensions, lot coverage, height of building, use intended or other regulations of the district in which it is located, is a lawful nonconforming building. Such building may continue to be occupied so long as it remains otherwise lawful, subject to the following provisions. (Ord. 67-1995. Passed 7-17-95.)

- (a) A lawfully nonconforming building shall be maintained in good repair.
- (b) A lawfully nonconforming building or accessory structure may only be altered, added to or enlarged so that it does not increase the nonconformity in yard, height, or other minimum dimensional requirements of the district. The Planning Commission may allow an alteration or addition that exceeds the coverage requirement of Section [1133.03](#) (e), pursuant to the standards contained in Section [1133.06](#), but in no event shall the coverage percentage exceed 25 percent. Nonconforming buildings or accessory structures, other than buildings and non-utility structures in residential districts, may be altered, added to, or enlarged, as above, only upon site plan approval by the Planning Commission pursuant to the standards contained in [1133.06](#). (Ord. 24-2001. Passed 4-16-01.)
- (c) A lawfully nonconforming building shall not be moved in whole or part to any other location on the lot or other premises, unless every portion of the building so moved is made to conform to all regulations of the district in which it is located.
- (d) If a lawfully nonconforming building is damaged or destroyed by any cause it may be reconstructed or replaced provided that any nonconformity with zoning regulations existing at the time of destruction shall not be expanded or enlarged, and provided that the reconstruction complies with all other current regulations.
- (e) The lawfully nonconforming use of a building or accessory structure may only be changed to a conforming use. Thereafter, it shall not be changed back to the former nonconforming use. The term "change of use" shall not include changes within a single use category. In a list of permitted uses, each use category is identified by a number, such as: 1. Park District.
- (f) If a lawfully nonconforming use within a building, accessory structure, or a portion of a building is discontinued for a period of one year, any future use of such building, or accessory structure or portion thereof, so discontinued, shall be in conformity with the use regulations of the district in which the building is located.

- (g) Signs lawfully erected but made nonconforming by this Code or amendments thereto, may be maintained and repaired as authorized by the Building Inspector to ensure attractive and safe conditions; however, such signs shall not be otherwise altered or moved unless made to comply with all regulations of Chapter [1155](#). Further, any sign or part thereof which is removed, except for authorized repairs, or required repairs which exceed 50% of its reproduction value shall not be rebuilt or relocated unless made to comply with all regulations of Chapter [1155](#).
- (h) Any other nonconforming use of a lot, or part thereof, shall not be expanded or extended onto other parts of the lot.
- (i) If such legally nonconforming use of a lot or part thereof, is discontinued for a period of one year, any future use of such lot, or part thereof so discontinued, shall be in conformity with the use regulations of the district in which it is located. (Ord. 67-1995. Passed 7-17-95.)

### **1157.03 CHANGE FROM NONCONFORMING USE.**

A nonconforming building or use shall cease to be considered as such whenever it complies with the requirements of the district in which it is located and shall not be resumed thereafter. (Ord. 17-1994. Passed 6-6-94.)

## **CHAPTER 1161 Storm Water Management**

### **1161.01 INTENT.**

It is the intent of this chapter to provide for development of the property in the Village while protecting and conserving the public health, safety, and welfare by minimizing water run-off and soil erosion problems incurred in adjustments to the topography. It is also the intent to preserve wherever possible the natural beauty of the landscape by encouraging the maximum retention of natural drainage streams, swales, trees, and other natural vegetation. (Ord. 17-1994. Passed 6-6-94.)

### **1161.02 DEFINITIONS.**

- (a) "Cut" means a portion of land surface or areas from which the earth has been removed or will be removed by excavation.
- (b) "Earth moving" means any excavating, cutting, filling, or any stockpiling thereof.
- (c) "Erosion" means the general process whereby soils are detached and moved by the flow of surface or subsurface water, wind, ice, or gravity.
- (d) "Excavating" means removing of soil or other materials by any means whatsoever from water or land on or beneath the surface thereof or beneath the land surface, whether exposed or submerged.
- (e) "Fill" means depositing of soil, rock or other materials by other than natural means.
- (f) "Finish grade" means the final level or elevation of the ground surface after grading is completed.
- (g) "Grading" means any excavating, cutting or filling, stockpiling of land or earth or combination thereof, including the conditions resulting from any of the above.
- (h) "Impervious surface" means roads, buildings, and structures, tennis courts, roofs, driveways, sidewalks, pools, patios, patio decks, decks, parking lots, and other similar surfaces.
- (i) "Natural ground surface" means the ground surface in its original state before any grading, cutting, or filling.
- (j) "Natural vegetation" means the plant materials which are indigenous to the area, and exist on a site prior to any construction or earth moving activity.
- (k) "Owner/developer/buildler" means an individual, firm, association, syndicate, corporation or partnership having a proprietary interest in developing the land subject to this chapter.
- (l) "Run-off" means the part of precipitation which flows over land without entering into the soil.
- (m) "Undisturbed" means that portion of the parcel to be developed which will not be regraded, have any vegetation removed from or have any impervious surface constructed on or over it. (Ord. 17-1994. Passed 6-6-94.)

### **1161.03 PROCEDURES.**

Upon filing of an application for a building permit, grade plan, or subdivision, the Building Inspector shall use the following procedure to determine if a "storm water management" permit is required for the proposed building, grading or development.

- (a) If more than 25% of the total surface of the parcel or original parcel is proposed to be excavated or graded, or covered with an impervious surface the Building Inspector shall refer the application to the Village Engineer. This information shall be supplied by the applicant at the time of filing the application with the Municipality.
- (b) The Village Engineer shall review the application who shall then notify the Building Inspector whether a storm water management permit is required.
- (c) If a storm water management permit is required the owner/developer shall submit a storm water control plan with grading, hydrological and landscaping plans in compliance with Section [1161.04](#). No building permit shall be issued before a storm water management permit is issued.
- (d) The Planning and Zoning Commission shall have the authority to request the developer to modify the storm water management plan and preliminary plot plan to better meet the standards and control measures of this chapter to protect the health and welfare of the adjacent property owner and to protect the surrounding topography. (Ord. 17-1994. Passed 6-6-94.)

#### **1161.04 REQUIRED CONTROL MEASURES, STANDARDS AND PLANS.**

(a) Photographic Evidence. Photographs, or video tape of the lot, parcel, or parcels shall be submitted to the Building Inspector prior to any clearing, grading or building activity on the parcel to be developed. The photographic evidence shall completely depict the condition of the parcel in sufficient detail to allow the Building Inspector to evaluate compliance with these provisions. The Building Inspector shall have the authority to request additional photographic records of pre-development to satisfy the intent of this section.

(b) Grading Plan. A grading plan shall be required for each lot in conformance with Section [1325.07](#) of the Building Code and in addition shall show the natural topography of the total parcel to be developed, the location and size of all structures, the finish grade of all improvement locations, driveway and road profiles, and the dimensions, elevations and detailed topographic contours of any proposed earth moving. The grading plan shall be submitted with each storm water management plan.

(c) Earth Moving Controls. The following minimum standards shall apply to earth moving:

(1) Earth moving shall be limited to the minimum required for building foundations, driveways, drainage control structures and immediate yard areas. With the exception of purely stockpiling or restoration efforts, substantial earth moving shall not be permitted.

(2) All earth moving shall create the lowest possible potential for airborne or waterborne transportation of soil.

(3) All fill shall be stabilized in conformance with generally accepted engineering standards, including a compacted density of at least 95%.

(4) All earth moving shall be accomplished in the shortest practical period of time. In no event shall the existing natural vegetation be destroyed, removed or disturbed more than fifteen days prior to the initiation of construction.

(5) No excessively steep, or unnecessary cuts or fills shall be allowed, as determined by the Village Engineer.

(Ord. 17-1994. Passed 6-6-94.)

(d) Hydrological Controls. The following standards shall apply to hydrological controls; subsection (2) below shall apply to all parcels in the Village, whether or not a storm water management permit is required.

(1) Natural, pre-existing drainageways shall be preserved to the maximum extent possible.

(2) Run-off from concentrated impervious surfaces shall be collected, detained when required, and transported in a pipe or other approved manner to a municipal storm sewer system, if available. If unavailable, or if chosen as an alternative means of storm water management by the owner of the site, water shall be retained on site by means of an infiltration trench, dry well, grass or vegetation strip or bio-retention system as described and specified in Chapter 2, Post Construction Storm Water Management Practices, Ohio Department of Natural Resources, Rainwater and Land Development Manual, as the same is currently published, and as amended and/or replaced, in successive years. The relevant portions of the Manual are available and on file at the Village offices.

A. If a downspout disconnect above ground is utilized as a part of the alternate system the disconnect cannot discharge less than two feet from the building. The discharge point must be a minimum of five feet from any property line or public right-of-way.

B. Alternate means shall also include the use of rain barrels and similar devices.

C. All alternate systems shall not increase the run-off to adjoining properties. If run-off to adjoining properties results from an alternate system, overflow devices shall be installed to carry the excess run-off to the municipal storm sewer system, by such method as is specifically approved by the Planning Commission. For properties adjoining Silver Lake or the Cuyahoga River or their tributaries, such excess run-off may flow into the Lake or River or their tributaries, but only upon specific approval of the Planning Commission and utilizing the best management practices described above to eliminate any risk of pollution to the Lake or River. If such excess run-off cannot be successfully directed to the municipal system or to the Lake or River as approved by the Planning Commission, then the flow of run-off from impervious surfaces shall be directed to the municipal system in the conventional manner and without use of the alternative methods described above.

D. All yard drains shall be connected to the municipal storm water system upon approval of the plans therefore by the Village Planning Commission, unless all storm water from the yard drain is absorbed on the premises of the yard drain as an alternative method. Upon demonstration by the owners of property adjoining Silver Lake, the Cuyahoga River, and tributaries of either within the Village, that their yard drains cannot feasibly be connected to the municipal system, then storm water run-off from yard drains on such property may be permitted to drain into such adjoining waters, if approved by the Planning Commission, as an alternative method utilizing the best management practices referenced above to eliminate any risk of pollution to such waters of the Village.

E. All alternative methods of storm water control described in this section shall be conditionally permitted uses, subject to the terms, conditions, standards, and procedures for approval contained in this section and Section [1133.06](#) of the Village Code.

(3) Natural drainageways shall be established by means consistent with sound professional engineering practices below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion and in such a manner as to dissipate the energy of the discharge.

- (4) The overall drainage system shall be completed and made operational at the earliest possible time during construction.
  - (5) Impact on adjacent property. Natural or usual flow of surface or subsurface water shall not be altered or obstructed in any way by grade changes that may adversely affect the property of another.
  - (6) Stormwater detention systems shall be required and utilized to the maximum extent feasible, as determined by the exercise of sound engineering practices, in addition to the above hydrological controls. (Ord. 68-2009. Passed 9-21-09.)
- (e) **Hydrological Control Plan.** A hydrological control plan, prepared by a registered civil engineer or landscape architect shall be submitted with each application for a storm water management permit. This plan shall include the following:
- (1) A reasonably detailed description of: the direction of flow within the local drainage basin; all natural drainage channels directed toward and away from the site within fifty feet of the perimeter of the site; other natural drainageways which may affect or be affected by the proposal; and any future realignment of the natural ravine channel.
  - (2) Special notations shall be included highlighting details of the terrain, existing natural surface drainage and areas subject to seepage or spring flow.
  - (3) The location of all surface and subsurface drainage devices and protective measures to be installed as part of the proposed development, together with a statement concerning any active erosion occurring at the outlet of existing or proposed systems.
  - (4) If there is substantial disturbance or destruction of natural vegetation a revegetation plan shall be submitted with the hydrological control plan.
- (f) The developer shall be responsible for the maintenance of public streets affected by construction of storm water management facilities including daily clean-up of accidentally fallen earth and materials removed from or delivered to the site. (Ord. 17-1994. Passed 6-6-94.)

**1161.05 DISCLAIMER PROVISIONS.**

The following disclaimer provisions pertain to any construction or any earth moving activities permitted by the administration of this chapter:

- (a) Compliance with the procedures of this chapter and the issuance of any related permits shall not be construed to impose any legal obligation upon the Municipality or its elected or appointed officials.
- (b) Compliance with the procedures of this chapter and the issuance of any related permits shall not relieve the property owner from civil liability claims by other property owners.
- (c) Compliance with the procedures of this chapter and the issuance of any related permits do not imply approval of, the need for, or the benefit or efficacy of the proposed construction; nor does it constitute any assertion that the proposed construction will not result in damage to the property in question or to adjoining property. (Ord. 17-1994. Passed 6-6-94.)

**1161.06 ADMINISTRATION AND ENFORCEMENT.**

- (a) Generally the administration and enforcement of this chapter will be as prescribed in Title Nine.
- (b) Additional site inspections shall be scheduled by the Village Engineer during and upon completion of each phase of the development. Construction activity shall be halted if it is found upon inspection that a situation exists or could result which endangers the health, safety or welfare of adjacent property owners. (Ord. 17-1994. Passed 6-6-94.)

**CHAPTER 1163**

**Off-Street Parking and Storage**

**1163.01 INTENT.**

Off-street parking and storage requirements and regulations are established in order to achieve the following purposes.

- (a) To relieve congestion on streets, so that they can be used more fully for movement of traffic;
- (b) To promote the general convenience, welfare and prosperity of park, institutional and residential owners. (Ord. 17-1994. Passed 6-6-94.)

**1163.02 OFF-STREET PARKING REQUIRED.**

Off-street parking is required for all park, institutional and residential uses as provided in Section [1163.05](#). (Ord. 17-1994. Passed 6-6-94.)

**1163.03 CONTINUATION OF PARKING FACILITIES.**

All off-street parking facilities, or those required as accessory to a use of a proposed or altered building, shall continue unobstructed in operation, and shall not be reduced below the required size or number of spaces, as long as the main use remains. Off street parking facilities shall not be used for automobile service or repair, except that an owner may repair an automobile licensed to that residence. (Ord. 17-1994. Passed 6-6-94.)

**1163.04 SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES.**

The following are minimum parking requirements, unless otherwise noted.

BUILDING OR USE	PARKING SPACES REQUIRED
Residential Garages	Minimum two and maximum three in a garage; one additional space is permitted separate from the garage and driveway in a location and configuration approved by the Planning Commission pursuant to the standards of Sec.1133.06.
Park/Recreational	One space for each 200 sq. ft. floor space, or as established by Planning Commission for other uses, pursuant to site plan review.
Institutional (Ord. 17-1994. Passed 6-6-94.)	Minimum two spaces per employee, or one space per four seats of a church.

**1163.05 PARKING AND CIRCULATION FOR RESIDENCES.**

The vehicular circulation system, including parking areas, shall be designed to occupy the minimum land area necessary to accommodate the automobile with safety and efficiency. Direct driveway access to individual single-family dwelling residential dwellings shall not be provided from arterial highways unless they lack any other access.

(Ord. 17-1994. Passed 6-6-94.)

**1163.06 DRIVEWAY REQUIREMENTS.**

(a) The location of driveways shall be designed to interfere as little as possible with the use of nearby property and with pedestrian and vehicular traffic on the nearest streets. Whenever possible, the centerline of the driveway shall be at least fifty feet from the right of way line of the nearest intersecting street. All off-street parking spaces, except for those required for a single family residence shall have access to a public street in such a manner that any vehicle leaving or entering the parking area into or from a public street shall be driving in a forward motion. Any residence located on a State or County highway shall have a turnaround space provided so an automobile will not be backed into the highway. All driveways shall be paved concrete, asphalt or crushed limestone, and all driveway aprons shall be paved with concrete or asphalt.

(b) Widening Drive; Permit Required. Any owner or resident seeking additional parking spaces or to widen or expand an existing driveway more than two feet on either side shall be required to submit plans to the Planning Commission and obtain approval and a zoning permit for such plans prior to construction, which approval shall be subject to construction and location requirements of applicable codes including Section [1163.05](#) herein.

(c) Driveway Maintenance and Repair. All parking areas shall be maintained in good and serviceable condition to be determined by the type of original construction approved or accepted by the Village, and shall be in all cases free of cracked or broken surfaces.

(Ord. 44-1998. Passed 7-20-98.)

**1163.07 PARKING AND STORAGE REGULATIONS.**

The following regulations apply to all districts within the Municipality, except as provided herein.

(a) All Districts:

(1) Except as otherwise hereinafter provided in subsection (a)(2), none of the following may be stored on any lot or parcel of land unless stored in an enclosed garage:

- A. Motor vehicles or chassis operable or otherwise.
- B. Trailers, house trailers, mobile homes or other vehicles designed for living quarters.
- C. Boats, boat trailers, or boat dollies.

(2) Camping trailers of the collapsible type and recreation trailers of comparable size, and boats under seventeen feet, may be stored in the rear yard. Other trailers, house trailers, mobile homes and other vehicles designed for living quarters, and other boats, which are not stored in an enclosed garage, may be stored in the rear yard if granted a permit to do so by the Planning Commission based upon the standards in Section [1133.06](#), infra. The Planning Commission may require screening and/or specific locations for storage, consistent with requirements elsewhere in this Code, as a condition of such permit. The applicant shall submit a plan for review and the Planning Commission shall hear the application with notice to neighboring property owners in the manner provided in Section [1109.04\(c\)](#).

(3) No vehicle of any type shall be used as living quarters while on any premises in this municipality.

(4) Any vehicle used for commercial purposes, having a gross vehicle weight over 10,000 pounds, shall not be parked on any driveway or yard, except in the case of emergencies, deliveries, loading and unloading, service calls, or repairs or construction upon the premises.

(b) In Residential Districts:

(1) All garages shall be attached to the dwelling, except that the Planning Commission may permit an unattached garage when necessary because of lot configuration.

(Ord. 67-1995. Passed 7-17-95.)

(2) Neither front or side yards nor any parking areas or spaces shall be used as space to make repairs to vehicles, as space for sales, to pile and store vehicle parts or accessories, to dismantle or perform servicing of any kind, except in emergency or temporary situations. (Ord. 44-1998. Passed 7-20-98.)

## **CHAPTER 1169**

### **Riparian Setback Development Standards**

#### **1169.01 PUBLIC PURPOSE.**

(a) It is hereby determined that the system of watercourses within the Village of Silver Lake contribute to the health, safety and general welfare of the residents of The Village of Silver Lake. The purpose of these Riparian Setback Development Standards is to protect and preserve the water quality within watercourses of the Village of Silver Lake and to protect residents of The Village of Silver Lake from property loss and damage because of flooding and other surface water environmental impacts. These regulations shall control uses and development within a Riparian Setback that would impair the ability of the riparian area to:

(1) Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters and regulating base flow.

(2) Stabilize the banks of watercourses to reduce bank erosion and the downstream transport of sediments eroded from stream banks.

(3) Reduce pollutants in watercourses during periods of high flows by filtering, settling and transforming pollutants already present in watercourses.

(4) Reduce pollutants in watercourses during periods of high flows by filtering, settling and transforming pollutants in runoff before they enter watercourses.

(5) Provide areas for natural meandering and lateral movement of stream channels.

(6) Reduce the presence of aquatic nuisance species to maintain diverse and connected riparian vegetation.

(7) Provide high quality stream habitats with shade and food to a wide array of wildlife by maintaining diverse and connected riparian vegetation.

(8) Benefit the Village of Silver Lake economically by minimizing encroachment on stream channels and reducing the need for costly engineering solutions such as dams and riprap, to protect structures and reduce property damage and threats to the safety of watershed residents, and by contributing to the scenic beauty and to the environment of the Village of Silver Lake, the quality of life of the residents of the Village of Silver Lake and corresponding property values.

(9) Protect the health, safety, and welfare of the citizens of the Village of Silver Lake.

(b) These regulations have been adopted to protect these services of riparian areas by providing reasonable controls governing structures and uses in Riparian Setbacks. (Ord. 83-2007. Passed 11-19-07.)

#### **1169.02 COMPLIANCE AND VIOLATIONS.**

(a) No zoning approvals shall be issued by the Village of Silver Lake without full compliance with the terms of these provisions.

(b) In addition to the enforcement powers of the Village of Silver Lake to enforce the provisions of this Zoning Resolution, these requirements may be enforced through civil or criminal proceedings brought by the Village of Silver Lake.

(Ord. 83-2007. Passed 11-19-07.)

#### **1169.03 DEFINITIONS.**

(a) **BEST MANAGEMENT PRACTICES (BMPs):** Conservation practices or protection measures which reduce impacts from a particular land use. Best Management Practices for construction are outlined in "Rainwater and Land Development, Ohio's Standard for Stormwater Management, Land Development, and Urban Stream Protection" prepared by the Ohio Department of Natural Resources.

(b) **DAMAGED OR DISEASED TREES:** Trees that have split trunk, broken tops, heart rot, insect or fungus problems that will lead to imminent death, undercut root systems that put the tree in imminent danger of falling, lean as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a stream or onto a structure.

(c) **DEFINED CHANNEL:** A natural or man-made depression in the terrain which is maintained and altered by the water and sediment it carries.

(d) **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA):** The agency with overall responsibility for administering the National Flood Insurance Program.

(e) **FINAL PLAT:** A final tracing of all or a phase of a subdivision in and its complete survey information.

(f) **IMPERVIOUS COVER:** Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks and other areas not covered by vegetation.

- (g) **NATURAL SUCCESSION:** A gradual and continuous replacement of one kind of plant and animal group by a more complex group. The plants and animals present in the initial group modify the environment through their life activities thereby making it unfavorable for themselves. They are gradually replaced by a different group of plants and animals better adapted to the new environment.
- (h) **OHIO RAPID ASSESSMENT METHOD:** A multi-parameter qualitative index established by the Ohio Environmental Protection Agency to evaluate wetland quality and function.
- (i) **100-YEAR FLOODPLAIN:** Any land susceptible to being inundated by water from a base flood, which is the flood that has a one percent or greater chance of being equaled or exceeded in any given year. For the purposes of these regulations, the 100-year floodplain shall be defined by FEMA and approved by the County of Summit Department of Building Standards.
- (j) **ORDINARY HIGH WATER MARK:** The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic. The ordinary high water mark defines the channel of a stream.
- (k) **POLLUTION:** Any contamination or alteration of the physical, chemical, or biological properties of any waters that will render the waters harmful or detrimental to: public health, safety or welfare; domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; livestock, wildlife, including birds, fish or other aquatic life.
- (1) "POINT SOURCE" pollution is traceable to a discrete point or pipe.
  - (2) "NON-POINT SOURCE" pollution is generated by various land use activities rather than from an identifiable or discrete source, and is conveyed to waterways through natural processes, such as rainfall, storm runoff, or ground water seepage rather than direct discharge.
- (l) **PRELIMINARY PLAN:** A drawing of a major subdivision for the purpose of study and which, if approved, permits proceeding with the preparation of the final plat.
- (m) **RIPARIAN AREA:** A transitional area between flowing water and terrestrial ecosystems, which provides a continuous exchange of nutrients and woody debris between land and water. This area is at least periodically influenced by flooding. Riparian areas, if appropriately sized and managed, help to stabilize banks, limit erosion, reduce flood size flows and/ or filter and settle out runoff pollutants, or perform other functions consistent with the purposes of these regulations.
- (n) **RIPARIAN SETBACK:** The area set back from each bank of a stream to protect the riparian area and stream from impacts of development, and watercourses and lakeside residents from impacts of flooding and land loss through erosion. Riparian Setbacks are those lands within the Village of Silver Lake that fall within the area defined by the criteria set forth in these regulations.
- (o) **SOIL AND WATER CONSERVATION DISTRICT (SWCD):** An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employees, hereinafter referred to as the Summit SWCD.
- (p) **SOIL DISTURBING ACTIVITY:** Clearing, grading, excavating, filling or other alteration of the earth's surface where natural or human made ground cover is destroyed and which may result in, or contribute to, erosion and sediment pollution.
- (q) **STREAM:** A surface watercourse with a well-defined bed and bank, either natural or artificial, which confines and conducts continuous or periodical flowing water.
- (r) **STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** The plan which describes all the elements of the stormwater strategy implemented during and after construction. The plan addresses erosion control and stormwater runoff quality.
- (s) **STORMWATER QUALITY TREATMENT:** The removal of pollutants from urban runoff and improvement of water quality, accomplished largely by deposition and utilizing the benefits of natural processes.
- (t) **VARIANCE (RIPARIAN SETBACK):** A modification of the enforcement of the Riparian Setback regulations which will not be contrary to the public interest and where, due to conditions peculiar to this property and not the result of the action of the applicant, a literal enforcement of the regulation would result in undue hardship to the applicant.
- (u) **WATERCOURSE:** A natural or artificial waterway, such as a stream, river, or lake with a defined bed and channel and a definite direction of course or outlet that is contained within, flows through, or borders the community. Both Silver Lake and Crystal Lake are included in this definition.
- (v) **WATERSHED:** An area of land that drains into a particular watercourse, usually divided by topography.
- (w) **WETLANDS:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. (Ord. 83-2007. Passed 11-19-07.)

#### **1169.04 ESTABLISHMENT OF A RIPARIAN SETBACK.**

- (a) Riparian Setbacks are established as provided in these regulations.
- (b) Watercourses and lakes addressed by these regulations are either those which meet the definition of "WATERCOURSE" or appear as indicated on at least one of the following maps:
- (1) USGS topographical map
  - (2) Summit County Riparian Setback map
  - (3) Soils maps located in the Soil Survey for Summit County, Ohio, USDA, NRCS

- (c) Widths of setbacks are measured as horizontal map distance outward from the ordinary high water mark on each side of a stream, a river, or the shore of a lake, and are established as follows:
- (1) A minimum of 300 feet on each side of all watercourses and lakes draining an area greater than 300 square miles.
  - (2) A minimum of 100 feet on each side of all watercourses and lakes draining an area greater than 20 square miles and up to 300 square miles.
  - (3) A minimum of 75 feet on each side of all watercourses and lakes draining an area greater than 0.5 square mile (320 acres) and up to 20 square miles.
  - (4) A minimum of 50 feet on each side of all watercourses and lakes draining an area greater than 0.05 square mile (32 acres) and up to 0.5 square mile (320 acres).
  - (5) A minimum of 30 feet on each side of all watercourses and lakes draining an area less than 0.05 square mile (32 acres).
- (d) The following are exempt from the terms and protection of these regulations: grassy swales, roadside ditches, drainage ditches created at the time of a subdivision to convey stormwater to another system, tile drainage systems, and stream culverts.
- (e) The following shall apply to the Riparian Setback:
- (1) Where the 100-year floodplain is wider than the Riparian Setback on either or both sides of the stream, the Riparian Setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by FEMA and approved by the County of Summit Department of Building Standards.
  - (2) Because the gradient of the riparian corridor significantly influences impacts on the stream, the following adjustment for steep slopes will be integrated into the Riparian Setback formulae for width determination:

Average Percent Slope	Width of Setback
15% - 20%	Add 25 feet
21%+ - 25%	Add 50 feet
> 25%	Add 100 feet

- (3) Where wetlands protected under federal or state law are identified within the Riparian Setback, the Riparian Setback shall consist of the full extent of the wetlands plus the following additional setback widths:
  - A. A 50 foot setback extending beyond the outer boundary of a Category 3 wetlands
  - B. A 30 foot setback extending beyond the outer boundary of a Category 2 wetlands
  - C. No additional setback will be required adjacent to Category 1 wetlands
- (4) Wetlands shall be delineated by a qualified professional under guidelines established by the US Army Corps of Engineers and Ohio Environmental Protection Agency and the site delineation approved by the appropriate agencies. All wetland delineations shall also include the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of the regulations.
- (5) The applicant shall be responsible for delineating the Riparian Setback, including any expansions or modifications as required by subsections (b) through (d) of this section, and identifying this setback on all subdivisions, site plans, and/or zoning permit applications. This delineation shall be done at the time of application of the preliminary plans, or all plans that are required, or at the time of submission of any permit applications. This delineation shall be subject to review and approval by the Summit SWCD. As the result of this review, the Summit SWCD may require further studies from the applicant.
- (6) Prior to any soil disturbing activity, the Riparian Setback shall be clearly delineated with construction fencing or other suitable material by the applicant on site, and such delineation shall be maintained throughout soil- disturbing activities. The delineated area shall be maintained in an undisturbed state unless otherwise permitted by these regulations. All fencing shall be removed when a development project is completed.
- (7) No approvals or permits shall be issued by the The Village of Silver Lake prior to delineation of the Riparian Setback in conformance with these regulations.
- (8) Upon completion of an approved subdivision, the Riparian Setback shall be permanently recorded on the plat records for the County of Summit. (Ord. 83-2007. Passed 11-19-07.)

**1169.05 USES PERMITTED IN THE RIPARIAN SETBACK.**

- (a) The following uses are permitted by right within the Riparian Setbacks without prior approval. Open space uses that are passive in character shall be permitted in the Riparian Setback including, but not limited to, those listed in subsections (a)(1) through (a)(4) hereof. No use permitted under these regulations shall be construed as allowing trespass on privately held lands. Alteration of this natural area is strictly limited. Except as otherwise provided in these regulations, the Riparian Setback shall be preserved in its natural state.
- (1) Recreational Activity. Passive recreational uses, as permitted by federal, state, and local laws, such as hiking, non-motorized bicycling, fishing, hunting, picnicking and similar uses and associated structures including boardwalks, pathways constructed of pervious material, picnic tables, and wildlife viewing areas.

- (2) Removal of Damaged or Diseased Trees. Damaged or diseased trees may be removed. Because of the potential for felled logs and branches to damage downstream properties and/or block ditches or otherwise exacerbate flooding, logs and branches resulting from the removal of damaged or diseased trees that are greater than 6 inches in diameter, shall be anchored to the shore or removed from the 100-year floodplain.
- (3) Revegetation and/or Reforestation. The revegetation and/or reforestation of the Riparian Setback shall be allowed without approval of the Summit SWCD. Species of shrubs and vines recommended for stabilizing flood prone areas along watercourses and lakes within the Village of Silver Lake are listed in the Appendix.
- (4) The Village of Silver Lake Engineer maintains the right of access to all watercourses and lakes within the Village of Silver Lake for the purposes outlined in the Ohio R.C. 6131.01 to 6131.64, 6133.01 to 6133.15, 6135.01 to 6135.27, and 6137.05.1.
- (b) The following uses are permitted by right within the Riparian Setbacks with prior approval of the design.
- (1) Stream Bank Stabilization/Erosion Control Measures. Best Management Practices (BMP's) for stream bank stabilization or erosion control may be allowed if such practices are within permitted uses by the local, state, and federal government regulations and are ecologically compatible and emphasize the use of natural materials and native plant species where practical and available. Such stream bank stabilization/ erosion control practices shall only be undertaken upon approval of a Stormwater Pollution Prevention Plan (SWPPP or SW3P) by the Summit SWCD.
- (2) Crossings. In reviewing plans for stream crossings, the Village of Silver Lake may confer with the Summit SWCD, the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the Village of Silver Lake Engineer; the Department of Environmental Services of Summit County; the Summit County Health Department; or other technical experts as necessary.
- A. Limited crossings of designated watercourses and lakes through the Riparian Setback by vehicles, storm sewers, sewer and / or water lines, and public utility lines will be per the approval of local, county, and state governing agencies and as a part of the regular subdivision review process.
- B. One driveway crossing per stream per tax parcel will be allowed for individual landowners.
- C. Roadway crossings for major and minor subdivisions, open space subdivisions, or any other non-single family residential use shall be designed and constructed per the Village of Silver Lake Engineer's design standards and as approved by the Village of Silver Lake Planning Commission and approving The Village of Silver Lake. If more than two crossings per 1,000 linear feet of stream center are required for these areas, the applicant must apply for a variance.
- D. All roadway crossings shall be perpendicular to the stream flow and shall minimize disturbance to the Riparian Setback and shall mitigate any necessary disturbances.
- (3) Placement of stormwater retention or detention facilities may be considered within the Riparian Setback if:
- A. Stormwater quality treatment that is consistent with current state standards is incorporated into the basin.
- B. The stormwater quality treatment basin is located at least 50 feet from the ordinary high water mark of the stream. (Ord. 83-2007. Passed 11-19-07.)

#### **1169.06 USES PROHIBITED IN THE RIPARIAN SETBACK.**

The following uses are specifically prohibited within the Riparian Setback:

- (a) Construction. There shall be no structures of any kind, except as permitted under these regulations.
- (b) Dredging or Dumping. There shall be no drilling for petroleum or mineral products, mining activity, filling or dredging of soil, spoils, or any material—natural or man-made—except as permitted under these regulations.
- (c) Roads or Driveways. There shall be no roads or driveways, except as permitted under these regulations.
- (d) Motorized Vehicles. There shall be no use of motorized vehicles of any kind, except those related to necessary maintenance functions on the property.
- (e) Modification of Natural Vegetation. Modification of the natural vegetation shall be limited to conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with these regulations; for such disturbances as are approved under these regulations; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of these regulations.  
Nothing in this section shall be construed as requiring a landowner to plant or undertake any other activities in the Riparian Setback provided the landowner allows for natural succession.
- (f) Parking Lots. There shall be no parking lots or other human made impervious cover, except as permitted under these regulations. (Ord. 83-2007. Passed 11-19-07.)

#### **1169.07 NON-CONFORMING STRUCTURES OR USES IN THE RIPARIAN SETBACK.**

- (a) Structures and uses within the Riparian Setback, existing on the effective date of these regulations that are not permitted under these regulations may be continued but shall not be expanded except as set forth below.
- (b) If damaged or destroyed, these structures or uses may be repaired or restored within two years from the date of damage/destruction, at the property owner's own risk.
- (c) A residential structure or use within the Riparian Setback existing upon the effective date of these regulations, may be expanded subject to the provisions of subsections (c)(1) through (3) below:

- (1) The expansion conforms to existing zoning regulations.
- (2) The expansion must not impact the stream channel or the 100-year flood plain.
- (3) The expansion must not exceed an area of fifteen percent (15%) of the footprint of existing structure or use that lies within the Riparian Setback. Expansions exceeding fifteen percent (15%) of the total footprint within the Riparian Setback must be obtained through a variance from the Board of Zoning Appeals.
- (d) Non-residential structure or use expansions will be permitted only through a variance from the Board of Zoning Appeals. (Ord. 83-2007. Passed 11-19-07.)

#### **1169.08 BOUNDARY INTERPRETATION AND APPEALS PROCEDURE.**

- (a) When an applicant disputes the boundary of the Riparian Setback or the ordinary high water mark of a stream, the applicant shall submit evidence to the Village Planning Commission that describes the boundary, presents the applicant's proposed boundary and presents all justification for the proposed boundary change.
- (b) The Village Planning Commission shall evaluate all materials submitted and shall make a finding.
- (c) The applicant may appeal the finding of the Village Planning Commission to the Village of Silver Lake Board of Zoning Appeals, by filing an appeal, in writing, with the Clerk of Council, within twenty (20) days of the written, final record of the Commission's decision. The party contesting the location of the Riparian Setback or the ordinary high water mark of the watercourses and lakes as determined by these regulations shall have the burden of proof in case of any such appeal. (Ord. 83-2007. Passed 11-19-07.)

#### **1169.09 VARIANCES WITHIN RIPARIAN SETBACK.**

- (a) Applications for variances to the provisions of this Chapter shall be submitted to the Village of Silver Lake Board of Zoning Appeals.
- (b) The Village of Silver Lake Board of Zoning Appeals shall consult with representatives from the Summit SWCD; the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the Village of Silver Lake Engineer; the Department of Environmental Services of Summit County; the Summit County Health Department; or other technical experts as necessary to consider variance requests.
- (c) Expansions of residential structures or uses exceeding fifteen percent (15%) of the footprint area and expansions of all non-residential structures or uses are subject to subsections (c)(1) to (4) hereof:
  - (1) The expansion conforms to the existing zoning regulations.
  - (2) The expansion must not impact the stream channel or the 100-year floodplain.
  - (3) The expansion of a non-residential structure or use must not affect upstream or downstream hydrologic conditions which could cause damage from flooding or streambank erosion to landowners in those areas. A hydrologic study must be completed by non-residential applicants only as a process of the variance application.
  - (4) The expansion of a non-residential structure or use will not exceed twenty-five percent (25%) of the footprint area. The twenty-five percent (25%) expansion limit is per the portion of the structure or use that lies within the Riparian Setback.
- (d) Requests for variances for subdivisions will be considered for the following:
  - (1) An additional stream crossing or crossings for a subdivision or open space development which is necessary for the health, welfare, and safety of the residents of the subdivision.
  - (2) A reduction of the setback width, not to exceed ten percent (10%) of the prescribed Riparian Setback width.
- (e) No variances shall be granted for expansion of the following structures or uses:
  - (1) Facilities which use, store, distribute, or sell petroleum-based products or any hazardous materials. Such facilities include, but are not limited to: asphalt plants, dry cleaners, gasoline service stations, and road maintenance facilities.
  - (2) Facilities which use, store, distribute, or sell products which may contribute higher than acceptable concentrations of dissolved or particulate matter to stormwater runoff around the facility. Such facilities include, but are not limited to: landfills or transfer stations, junk yards, recycling facilities, quarries and borrow pits, sand and gravel extraction operations, and road salt storage barns.
- (f) In reviewing whether to grant variances, the Village of Silver Lake Board of Zoning Appeals shall consider the following:
  - (1) The extent to which the requested variance impairs the functions of the riparian area. This determination shall be based on sufficient technical and scientific evidence as provided by the applicant and the agencies listed above.
  - (2) The soil type and natural vegetation of the parcel as well as the percentage of the parcel that is in the 100-year floodplain.
  - (3) The degree of hardship these regulations place on the applicant and the availability of alternatives to the proposed activity.
  - (4) Whether a front, side or rear yard setback zoning variance or similar variance should be considered to maintain the required Riparian Setback area. (Ord. 83-2007. Passed 11-9-07.)

#### **1169.10 INSPECTION OF RIPARIAN SETBACK.**

- (a) The Riparian Setback shall be inspected by the Summit SWCD:
  - (1) When a preliminary subdivision plat or other land development plan is submitted to the Village of Silver Lake.

(2) When a building or zoning permit is requested.

(3) Prior to any soil disturbing activity to inspect the delineation of the Riparian Setback as required under these regulations.

(b) The Riparian Setback shall also be inspected annually or as time permits by the Summit SWCD or approved monitoring entity for compliance with any approvals under these regulations or at any time evidence is brought to the attention of the Summit SWCD that uses or structures are occurring that may reasonably be expected to violate the provisions of these regulations. (Ord. 83-2007. Passed 11-19-07.)

## EXHIBIT A

### Appendix: Woody Plants Suitable for Riparian Areas

This list was assembled by Roger Gettig, The Holden Arboretum for Chagrin River Watershed Partners.

<b>Flood Tolerance*</b>	<b>Shade</b>	<b>Common</b>
<b><u>High Flood Tolerance</u></b>	<b><u>Tolerance**</u></b>	<b><u>Name</u></b>
Aronia <i>arbutifolia</i>	3	Red chokeberry
Aronia <i>melanocarpa</i>	3	Black chokeberry
Cephalanthus <i>occidentalis</i>	5	Common buttonbush
Clethra <i>alnifolia</i>	2	Summersweet clethra***
Cornus <i>amomum</i>	4	Silky dogwood
Cornus <i>stolonifera (sericea)</i>	5	Redosier dogwood
Hamamelis <i>vernalis</i>	3	Vernal witchhazel ***
Ilex <i>decidua</i>	3	Possumhaw ***
Ilex <i>glabra</i>	2	Inkberry ***
Ilex <i>verticillata</i>	3	Common winterberry
Itea <i>virginica</i>	1	Virginia sweetspire ***
Magnolia <i>virginiana</i>	2	Sweetbay magnolia ***
Myrica <i>pensylvanica</i>	4	Northern bayberry
Physocarpus <i>opulifolius</i>	4	Common ninebark
Potentilla <i>fruticosa</i>	4	Bush cinquefoil
Sambucus <i>canadensis</i>	1	American elderberry
Salix <i>x cotteti</i>	5	“Bankers” willow ***
Salix <i>exigua</i>	5	Sandbar willow
Salix <i>purpurea</i>	5	“Streamco” willow ***
Viburnum <i>cassinoides</i>	2	Witherod viburnum
Parthenocissus <i>quinquefolia</i>	1	Virginia creeper (vine)
<b><u>Moderate Flood Tolerance*</u></b>		
Calycanthus <i>floridus</i>	1	Common sweetshrub
Hypericum <i>kalmianum</i>	5	Kalm St. Johnswort
Viburnum <i>dentatum</i>	2	Arrowwood viburnum
Xanthorhiza <i>simplicissima</i>	1	Yellowroot ***
<b><u>Intermediate Flood Tolerance*</u></b>		
Aesculus <i>parviflora</i>	2	Bottlebush buckeye ***
Aesculus <i>pavia</i>	2	Red buckeye ***
Cornus <i>racemosa</i>	2	Gray dogwood
Lindera <i>benzoin</i>	1	Common spicebush
Rosa <i>setigera</i>	4	Prairie rose
Campsis <i>radicans</i>	3	Trumpetcreeper (vine)
Lonicera <i>dioica</i>	2	Limber honeysuckle (vine)
Corylus <i>americana</i>	2	American filbert
Diervilla <i>lonicera</i>	1	Dwarf bush honeysuckle
Fothergilla <i>gardeni</i>	1	Dwarf fothergilla ***
Fothergilla <i>major</i>	1	Large fothergilla ***
<b><u>Intermediate Flood Tolerance*</u></b>	<b><u>Shade Tolerance**</u></b>	<b><u>Common Name</u></b>
Hydrangea <i>arborescens</i>	1	Smooth hydrangea
Hydrangea <i>quercifolia</i>	1	Oakleaf hydrangea ***
Mahonia <i>aquifolium</i>	1	Oregongrape holly ***
Rosa <i>carolina</i>	4	Carolina rose

Rubus <i>odoratus</i>	1	Fragrant thimbleberry
Vaccinium <i>stamineum</i>	2	Common deerberry

**Low Flood Tolerance**

Arctostaphylos <i>uva-ursi</i>	4	Bearberry
Cornus <i>rogusa</i>	1	Roundleaf dogwood
Corylus <i>americana</i>	2	American filbert
Diervilla <i>lonicera</i>	1	Dwarf bushhoneysuckle
Fothergilla <i>gardeni</i>	1	Dwarf fothergilla ***
Fothergilla <i>major</i>	1	Large fothergilla ***
Hydrangea <i>arborescens</i>	1	Smooth hydrangea
Hydrangea <i>quercifolia</i>	1	Oakleaf hydrangea ***
Mahonia <i>aquifolium</i>	1	Oregongrape holly ***
Rosa <i>carolina</i>	4	Carolina rose
Rubus <i>odoratus</i>	1	Fragrant thimbleberry
Symphoricarpos <i>albus</i>	1	Common snowberry
Vaccinium <i>stamineum</i>	2	Common deerberry

**No Flood Tolerance**

Amorpha <i>canescens</i>	5	Leadplant ***
Ceanothus <i>americanus</i>	3	New Jersey tea
Comptonia <i>peregrina</i>	2	Sweetfern
Dirca <i>palustris</i>	1	Leatherwood
Hypericum <i>frondosum</i>	5	Golden St. Johnswort
Juniperus <i>communis</i>	5	Common juniper
Juniperus <i>horizontalis</i>	5	Creeping juniper ***
Rhus <i>aromatica</i>	5	Fragrant sumac
Sambucus <i>pubens</i>	1	Scarlet elder
Symphoricarpos <i>albus</i>	1	Common snowberry

**\*High Flood Tolerance:** Generally lowland wet species surviving when flooded or exposed to high water table more than 40% of the growing season.

**\*Moderate Flood Tolerance:** Generally lowland wet species surviving when flooded or exposed to high water table more than 30% of the growing season but less than 40%.

**\*Intermediate Flood Tolerance:** Generally lowland wet-mesic species surviving occasional inundation or elevated water table between 20% and 30% of the growing season.

**\*Low Flood Tolerance:** Generally upland mesic and mesic-dry species rarely inundated or exposed to an elevated water table for periods of short duration, between 5% and 20% of the growing season.

**\*No Flood Tolerance:** Generally upland dry species exhibiting immediate and rapid decline frequently culminating in death if inundated or exposed to elevated water table for more than 5% of the growing season.

**\*\*Shade Tolerance:** Shade tolerance means able to grow in a state of health and vigor beneath dense shade. In this ranking, shrubs and vines are ranked on a scale of 1 to 5, with 1 being very shade tolerant, and 5 being very shade intolerant.

- Note:
1. The majority of plants listed are available on the local commercial market and do not displace native species.
  2. The cultivated varieties (“cultivars”) of the species listed above may also be used.
  3. Primary information taken from Hightshoe, Gary, 1987. Native Trees, Shrubs, and vines for Urban and Rural America. Van Nostrand. NY, NY
  4. For further assistance contact Roger Gettig, Landscape Consulting Program, The Holden Arboretum, or Steve Roloson, ODNR Scenic Rivers Program.

**CHAPTER 1191  
Enforcement**

**1191.01 ENFORCEMENT.**

The following regulations are established to ensure adequate and equitable enforcement of this Zoning Code.

- (a) Inspections. Subsequent to the issuance of a building permit, the Building Inspector shall make periodic inspections as required by the Zoning or Building Codes to ensure that work is proceeding as authorized. Also, the Building Inspector shall inspect all buildings and land periodically to certify the conforming or non-conforming status of all uses and structures.

(b) Order for Elimination of Violations. The Building Inspector shall record and investigate any report of an alleged violation of this Code which is submitted to him in writing, signed by the complainant, or which is apparent by his inspection. If the Building Inspector finds that any provisions of this Code or related ordinances are being violated, he shall notify in writing the person(s) responsible for such violation, indicating the nature of the violation and actions necessary to correct it. He shall order the cessation, removal or other correction of the violation as appropriate. After issuance of such order no construction or other work requiring a building permit shall be conducted at the subject property until the violation has been corrected.

(c) Records. The Clerk shall maintain records of all subdivision approvals, building permits applications, occupancy permits applications considered and all authorizations subsequently issued. The Clerk shall maintain records of all written and signed violation reports received. Such records shall be available to the public. (Ord. 17-1994. Passed 6-6-94.)

#### **1191.99 PENALTIES.**

Unless a greater penalty is provided in a section of this Zoning Code:

(a) Any person, firm or corporation violating any provision of this Zoning Ordinance or amendment thereto shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues shall be deemed a separate offense.

(b) In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of any of the provisions of the Zoning Ordinance or amendment thereto, the Zoning Inspector, Village Engineer, Building Inspector, Clerk or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use. (Ord. 16-1996. Passed 4-1-96.)

### **CHAPTER 1313**

#### **Fee Schedules**

##### **1313.01 BUILDING PERMIT AND BOND REQUIRED.**

(a) The owner of property, his general contractor or subcontractor or any person acting on his behalf, shall before commencement of any work, secure the necessary permits from the Division of Building Inspection and Regulation, and deposit a bond therewith as set forth in this chapter.

(b) Signs, fences and accessory buildings less than 100 square feet are exempted from the building permit requirements but must meet all other requirements as set forth in Chapter 11 of the Planning and Zoning Code of the Village of Silver Lake and Section 1313.10 - Zoning Fees as set forth in this chapter. (Ord. 77-1997. Passed 10-20-97.)

##### **1313.02 BUILDING FEES.**

Pursuant to a contract between the Village of Silver Lake and the City of Cuyahoga Falls, Ohio, building inspection services for the Village shall be performed by the City of Cuyahoga Falls, with the exception of commercial plumbing. Accordingly, the Village adopts the applicable building and grading fees as established by contract to be applied as and when required by Village permit regulation and consistent therewith, and as such fees are changed and amended from time to time, which fees are incorporated herein by reference. Such fees shall be paid to City of Cuyahoga Falls by the applicant. Commercial plumbing permit fees for structures are established and administered by the County of Summit. (Ord. 30-2008. Passed 3-17-08.)

##### **1313.03 STREET AND SIDEWALK FEES AND BOND.**

(a) New Residence Class A and Additions Thereto. Before a new residence Class A or additions thereto containing a cubage of 10,000 feet or more are constructed, a permit fee of thirty dollars (\$30.00) shall be paid, which sum shall cover the expense of a minimum of two inspections of the streets and public ways in the vicinity of the proposed new construction by the Director of Public Service. One of the inspections shall be made prior to any construction and one shall be made at the completion of all construction. In addition, each individual making an application for a permit shall deposit cash or a certified check in the amount of three hundred dollars (\$300.00).

(b) New Buildings or Structures Class B, Class C and Class D and Additions Thereto. Before a new building or structure Class B, Class C and Class D or additions thereto containing a cubage of 10,000 feet or more are constructed a permit fee of eighty dollars (\$80.00) shall be paid which sum shall cover the expenses of a minimum of four inspections of the streets and public ways in the vicinity of the proposed new construction by the Director of Public Service. One of the inspections shall be made prior to any construction and one shall be made at the completion of all construction. In addition, each individual making an application for a permit shall deposit cash or a certified check in the amount of eight hundred dollars (\$800.00). (Ord. 38-1979. Passed 8-6-79.)

**1313.04 REFUND OF BOND DEPOSIT.**

Ninety days after the completion of the construction or the granting of a certificate of occupancy all or any portion of the bond deposit not needed for the return of the streets and public ways to their original condition, or repair and replacement of damage to trees or other Village property, shall be returned to the individual posting the bond upon approval of the Director of Public Service. It is specifically provided that the bond deposit shall not be the limit of the property owner, agent or contractor’s liability if the actual damages exceed the amount of the bond. (Ord. 38-1979. Passed 8-6-79.)

**1313.05 FEES FOR CURB CUTS, DOWNSPOUT OPENINGS AND CULVERTS. (REPEALED)**

(EDITOR’S NOTE: Former Section 1313.05 was repealed by Ordinance 77-1997.)

**1313.06 AIR CONDITIONING AND HEATING; ELECTRICAL AND PLUMBING INSPECTORS.**

EDITOR’S NOTE: Former Section 1313.06 was repealed by Ordinance 87-1995.

**1313.07 ELECTRICAL FEES.**

EDITOR’S NOTE: Former Section 1313.07 was repealed by Ordinance 87-1995.

**1313.08 SANITATION FEES.**

The fee schedule for work performed on Village controlled sanitary and storm sewers is as follows:

Permit fee	\$10.00
For each connection to main sanitary sewer	250.00
For each inspection of lateral and connection to sanitary sewer	10.00
For each inspection of lateral and connection to storm sewer	10.00

(Ord. 38-1979. Passed 8-6-79.)

**1313.09 MISCELLANEOUS FEES.**

EDITOR’S NOTE: Former Section 1313.09 was repealed by Ordinance 87-1995.

**1313.10 ZONING FEES.**

The following fees for the administration and review of zoning matters related to the below listed items shall be paid to the Village of Silver Lake by applicants for building and occupancy permits, zoning changes, appeals to the Board of Zoning Appeals, and subdivision approvals:

(a) Dwellings, new, razing and replacement construction:	\$25.00
(b) Dwellings, alterations, decks:	\$25.00
(c) Other primary use structures new razing, and replacement construction:	\$25.00
(d) Other primary use structures, alterations:	\$25.00
(e) Request for zoning change:	\$50.00
(f) Fence (no building permit required):	\$25.00
(g) Signs:	\$5.00
(h) Swimming pools, recreational courts and other recreational uses:	\$75.00
(i) Accessory buildings (separate building permit required for structures greater than 100 sq. ft.):	\$25.00
(j) Driveways, parking lots:	\$25.00
(1) Minor Subdivision:	
A. Approval by City Engineer	\$15.00 per parcel, plus \$350.00 cash-in-lieu of public site dedication for each new dwelling site created.
B. Review by Planning Commission Council	\$50.00 per parcel plus \$350.00 cash-in-lieu of public site dedication for each new dwelling site created.
(2) Major Subdivision:	
A. Concept and sketch plan review:	No fee
B. Preliminary Plan review:	\$25.00/ acre or \$250.00 minimum fee.

C.	Determination of requirements for public sites or cash-in-lieu of the dedication of said sites:	10% of the estimated current value of the entire property prior to proposed improvements, or \$500.00 per dwelling unit site to be created, whichever amount is greater.
D.	Final review and approval of plat:	\$50.00 plus \$2.00 for each sub lot or dwelling unit site to be created.
E.	Replats:	\$50.00
(k)	Miscellaneous structures:	\$25.00
(l)	Home occupations:	\$10.00 one-time charge.
(m)	Board of Zoning Appeals fees:	\$150.00
(n)	Satellite Dish-Antenna:	\$ 75.00
(o)	All other conditional uses:	\$ 75.00
(p)	Grading and excavating:	\$25.00 plus cash deposit fixed by the Village Engineer to cover all costs incurred by the Village.
(q)	Moving buildings and other structures:	\$100.00 plus cash deposit fixed by the Director of Public Service to cover all costs incurred by the Village in connection with the proposed move.

(Ord. 77-1997. Passed 10-20-97.)

## **CHAPTER 1511**

### **Open Burning**

#### **1511.01 DEFINITIONS.**

- (a) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any devise not subject to or designed specifically to comply with the requirements of the Ohio Administrative Code 3745-17-09 or 3745-17-10.
- (b) "Bonfire" means an outdoor fire for ceremonial purposes and larger than a recreation fire, but no larger than 5 feet by 5 feet in dimension.
- (c) "Recreation fire" means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an outdoor fireplace, barbecue grill, or barbeque pit for pleasure, religious, ceremonial cooking, warmth or similar purposes and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height..
- (d) A barbeque pit is an area below ground, entirely containing the fuel for a cooking fire, or an area surrounded by a non-combustible material, entirely containing the fuel for a cooking fire and not exceeding the size requirement for a recreational fire without specific approval by the fire official. (Ord. 61-2009. Passed 8-3-09.)

#### **1511.02 RELATIONS TO OTHER PROHIBITIONS.**

No provisions of Ohio Administrative Code Chapter 3745-19, permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Ohio Revised Coe, or any regulation of any State Department, or any local ordinance or regulation dealing with open burning. (Ord. 61-2009. Passed 8-3-09.)

#### **1511.03 OPEN BURNING IN RESTRICTED AREAS.**

- (a) No person or property owner shall cause or allow open burning of any kind within the corporate limits of the Village of Silver Lake, Ohio, except as permitted by this chapter.
- (b) Open burning shall be allowed for the following purposes without a permit.
  - (1) Cooking for human consumption in an outdoor fireplace, barbecue grill or barbecue pit.
  - (2) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers or strikers, smudge pots and similar occupational needs.

- (3) Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio Department of Agriculture, or U.S. Department of Agriculture, that open burning is the only appropriate disposal method

Fires allowed by subsections (b)(1) and (b)(2) hereof shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants. (Ord. 61-2009. Passed 8-3-09.)

#### **1511.04 BONFIRE REQUIREMENTS.**

The following requirements apply to bonfires:

- (a) A permit is required from the Cuyahoga Falls Fire Department.
  - (b) The application for the permit shall be obtained at least ten days before the fire occurs.
  - (c) The fire must be at least 50 feet from any structure.
  - (d) Provisions shall be made to prevent the spread of fire to within 50 feet of any structure.
  - (e) The fire shall be no larger than 5 feet by 5 feet in dimension and shall not burn longer than 3 hours.
  - (f) There shall be at least one portable fire extinguisher with a minimum of a 4-A rating or other approved on site fire extinguishing equipment such as dirt, sand, water barrel, garden hose or water truck (approved by the fire department).
  - (g) The fire shall be constantly attended until the fire is extinguished.
  - (h) Fuel shall consist of only seasoned dry firewood and shall be ignited with a small quantity of paper.
  - (i) The fire shall not be utilized for waste disposal and fuel shall be chosen to minimize air contaminants.
- (Ord. 61-2009. Passed 8-3-09.)

#### **1511.05 RECREATION FIRES.**

A permit is not required for a recreation fire but such fires are subject to the following regulations:

- (a) The fire must be made at least 25 feet away from any structure or combustible material and in no case shall have a total fuel area greater than 3 feet in diameter and 2 feet in height.
- (b) Provisions shall be made to prevent the spread of fire to any structure or combustible material.
- (c) Fires in approved containers are permitted to be no less than 15 feet from a structure. Approved containers may be used on wood decks or other similar structures provided their use is specifically approved by the fire official.
- (d) Approved containers are limited to metal fire rings, commercially manufactured units for open flame type burning, fire pits at least 18 inches deep with stones or fire brick lining the perimeter, and other similar configurations conforming to the intent of containing the fire safely
- (e) The fire shall not be fueled by leaves or other than wood vegetation and shall not generate objectionable smoke or odors.
- (f) If a complaint is generated based on the objectionable smoke or odors, the complainant(s) shall be present upon investigation by the Fire Department. Smoke entering adjacent structures shall be considered objectionable and the fire is to be extinguished. Other matters of complaint shall be evaluated by the fire official based on the safety and health of those present and in proximity to the fire. (Ord. 61-2009. Passed 8-3-09.)

#### **1511.99 PENALTY.**

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both. (Ord. 61-2009. Passed 8-3-09.)