

TITLE XV – LAND USAGE

CHAPTER 153:

ZONING CODE

( With **2017** Text Revisions)

## CHAPTER 153: ZONING

Section

<b><i>General Provisions</i></b>		153.072	Height
153.001	Title	153.073	Front yards
153.002	Interpretation, purpose and conflict	153.074	Side yards
153.003	Definitions	153.075	Rear yards
153.004	Validity	153.076	Setback from publicly established drainage ditches
153.005	Effective date	153.077	Landscaping and screening provisions
<b><i>Districts and General Provisions</i></b>		<b><i>Enforcement</i></b>	
153.015	Districts	153.090	Zoning Inspector
153.016	District map	153.091	Zoning certificate
153.017	District boundaries	153.092	Conditions under which certificates are required
153.018	Compliance with regulations	153.093	Application and issuance of zoning certificates
153.019	Non-conforming uses	153.094	Development plans
153.020	Traffic visibility across corner lots	153.095	Fee for zoning certificate
<b><i>General Regulations</i></b>		153.096	Zoning certificate for non-conforming uses
153.035	Use regulations	<b><i>Board of Zoning Appeals</i></b>	
153.036	Height, lot, area and floor area requirements	153.110	Organization and procedures
153.037	Off-street parking and loading requirements	153.111	Applications and appeals
<b><i>Special Provisions</i></b>		153.112	Hearings
153.050	Performance requirements	153.113	Decisions of the Board
153.051	Mobile home park residence	153.114	Appeals from Board of Zoning Appeals to Council
153.052	Trailers, motels, motor homes	153.115	Powers of Board
153.053	Signs: billboards, outdoor advertising, permanent and/or temporary, political and the like	<b><i>District Changes and Chapter Amendments</i></b>	
153.054	Planned unit development (PUD)	153.125	General
153.055	Private swimming pools	153.126	Procedure for change in zoning district
153.056	Temporary buildings	153.127	Application fees
153.057	Statutory agricultural districts	153.999	Violations and penalty
153.058	Cluster dwellings	<b><i>Cross reference:</i></b>	
153.059	Accessory buildings and structures	<i>Clandestine drug laboratories, see §§ 93.75 through 93.79</i>	
<b><i>Exceptions and Modifications</i></b>			
153.070	General		
153.071	Existing lots of record		

**GENERAL PROVISIONS**

**§ 153.001 TITLE.**

This chapter shall be known and cited as the "Zoning Ordinance of 1976."  
(Ord. 76-43, passed 12-13-1976)

**§ 153.002 INTERPRETATION, PURPOSE AND CONFLICT.**

In interpreting and applying the provision of this chapter, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued and not in conflict with any of the provisions of this chapter or which shall be adopted or issued, pursuant to law relating to the use of buildings or premises and likewise not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces or larger lot areas than are imposed or required by such other ordinances or agreements, the provisions of this chapter shall control.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.003 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future; the singular number shall include the plural and the plural, the singular; the word "building" shall include the word "structure". and the word "shall" is mandatory and not directory.

**ACCESSORY USE.** A use or building such as a garage naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the land or buildings.

**AGRICULTURE.** Any agricultural use, including farming, dairying, pasturage, agriculture and animal and poultry husbandry.

**ALLEY.** A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

**ALTERATION.** Any physical changes made to buildings or structures, their systems or elements inside or outside, in whole or in part, such as but not limited to, additions, deletions, purpose of use or level of activity, shall be regarded as an alteration subject to review and approval.

**APARTMENT.** A room or suite of rooms intended, designed, or used as a residence by a single family.

**APARTMENT BUILDING.** A building designed for or containing apartments or suites of rooms for residence.

**AUTOMOTIVE REPAIR.** The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning.

**AUTOMOTIVE SALES.** The sale or rental of new or used vehicles or trailers.

**AUTO AND METAL SALVAGE.** The dismantling, storage, sale or dumping of used motor vehicles, trailers or parts thereof.

**BOARD.** The Board of Zoning Appeals.

**BOARDING HOUSE.** A building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for three or more persons but not exceeding 20 persons.

**BUILDING, FRONT LINE OF.** The line of that face or front of the building nearest the front of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps.

**BUILDING, HEIGHT OF.** The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

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

**BUSINESS SERVICES.** Any activity conducted for gain which renders services primarily to other commercial or industrial enterprises or which services and repairs appliances and machines used in homes or business.

**CLINIC.** An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of physicians practicing medicine together.

**CLUB.** A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

**COMMISSION.** The Planning Commission of the municipality.

**CONDITIONAL USE.** A conforming use of buildings and/or land which, by the nature of it, requires review by the Board as set forth in § 153.115 in order to determine its effect upon adjacent existing uses.

**COUNCIL.** The Council of the municipality.

**DRIVE-IN COMMERCIAL USES.** Any retail commercial use providing considerable off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theaters and similar uses.

**DWELLING.** Any building or portion thereof which is designed for or used for residential purpose.

**DWELLING, CLUSTER.** A cluster dwelling is a detached single-family dwelling and/or two to four attached dwellings planned as a unified development at a density greater than required for single-family or two-family development.

**DWELLING, MULTIPLE.** (See Definitions in "Ohio Building Code.")

**DWELLING, ONE-, TWO- OR THREE-FAMILY.** A structure, exclusively comprised of one, two or three dwelling units and physically separated from adjacent structures. Each dwelling unit is intended for occupancy by a family and no more than five lodgers or boarders. For this definition to be applicable, shared means of egress for two- and three-family dwellings shall be limited to those open to the exterior.

**DWELLING, SINGLE-FAMILY.** A building designed for or occupied exclusively by one family.

**DWELLING, TWO-FAMILY.** A building designed for or occupied exclusively by two families.

**DWELLING, MULTIPLE.** A building used or designed as a residence for three or more families living

independently of each other and doing their own cooking therein, including apartment houses, apartments hotels, flats and group houses.

**ENTERTAINMENT FACILITIES.** Any activity conducted for gain which is generally related to the entertainment field, such as motion picture theaters, bowling alleys, roller skating rinks, miniature golf, golf driving ranges, commercial swimming pools, carnivals and related uses.

**ESSENTIAL SERVICES.** The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings other than structures for the purpose of housing the essential service named herein.

**FAMILY.** One or more persons occupying a dwelling and living as a single housekeeping unit and doing their own cooking on the premises, as distinguished from a group occupying a boarding house or hotel, as herein defined.

**FENCE.** Any material creating a railing, enclosure, or other structure defining separation of property, designed to impede entry or exit. May be of man-made materials or natural barrier of closely grouped trees or vegetation.

**FRONTAGE.** All the property on one side of a street between two intersecting streets (crossing or terminating), measured at the setback building line - or if the street is dead-ended, then all the property abutting on one side between an intersecting street and the dead-end of the street.

**GARAGE, PRIVATE.** An accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles may be a commercial vehicle of not more than two-ton capacity.

**GASOLINE STATION or SERVICE STATION.** Any building, structure or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work, such as motor replacement, body and fender repair or spray painting.

**HIGHWAY, MAJOR.** A street or road of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.

**HOME OCCUPATION.**

(1) Any occupation or activity carried on by a member of the immediate family residing on the premises, provided there is no commodity sold upon the premises and no mechanical equipment is used except for a type that is similar in character to that normally used for purely domestic or household purposes, and provided that no display will indicate from the exterior that the building or land is being utilized in part for any purpose other than that of the dwelling.

(2) **HOME OCCUPATION** shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman, or other professional person for consultation or emergency treatment but not for the general practice of his profession.

**HOTEL.** A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contrast to a boarding house, a lodging house or an apartment house, which are herein separately defined. (See also, Definitions in the Ohio Building Code)

**INSTITUTION.** A building occupied by a non-profit corporation or a non-profit establishment for public use.

**JUNK YARD.** Any open space or space in excess of 200 square feet inside a building where waste or discarded materials are stored, processed or sold.

**LOADING SPACE.** A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks and having a minimum dimension of 12 by 40 feet and a vertical clearance of at least 14 feet.

**LOT.** A parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building, together with its accessory buildings, the open spaces and parking spaces required by this chapter and having its principal frontage upon a street or upon an officially approved place.

**LOT OF RECORD.** Any lot which, individually or as part of a subdivision, has been recorded in the Office of the Recorder of the county.

**LOT, MINIMUM AREA OF.** The area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

**LOT WIDTH.** The width of a lot at the building setback line measured at right angles to its depth.

**MANUFACTURING.** Any manufacturing or industrial process including food processing which by nature of the materials, equipment and process utilized are not objectionable for reason of odor, radiation, noise, vibration, cinders, gas fumes, dust, smoke, refuse matter or water-carried waste. Any manufacturing or industrial process permitted in an "M-I" District shall comply with the performance requirements of §§ 153.050 *et seq.*

**MOBILE HOME.** Any vehicle or similar portable structure having no foundation other than wheels, jacks or skirtings so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

**MOBILE HOME PARK.** An area manifestly designed to accommodate mobile homes in a safe, sanitary and desirable manner as described in § 153.051.

**MORE RESTRICTIVE.** In reference to a non-conforming use, the changing of a use to more nearly conform to the permitted use, thus increasing the requirements such as side yards and the like, or generally increasing compatibility of a non-conforming use to the requirements of the district in which it is located.

**MUNICIPALITY.** The Village of Smithville.

**NON-COMMERCIAL RECREATIONAL FACILITY.** Private and semi-public recreational facilities which are not operated for profit.

**NON-CONFORMING USE.** The use of land or a building or portion thereof, which does not conform with the use regulations (§§ 153.015 *et seq.*) of the district in which it is situated.

**OFF-STREET PARKING SPACE.** Any parking space located wholly off any street, alley or sidewalk, either in an enclosed building or on an open lot and where each parking space has an area of not less than 180 square feet (measuring nine feet wide and 20 feet long) exclusive of access drives or aisles and shall be of usable shape and condition.

**PERMANENT PARCEL NUMBER (PPN).** The identifying number of a lot or parcel of land as issued and recorded by the Map Office and County Auditor, containing

the geographical location, description, boundary map and area within it.

**PERSONAL SERVICES.** Any enterprise, conducted for gain, which primarily offers services to the general public, such as shoe repair, watch repairing, barber shops, beauty parlors and similar activities.

**PLANNING COMMISSION.** The Planning Commission of the municipality.

**PLANT CULTIVATION.** The cultivation of crops, horticulture, floriculture, viticulture, including fruit trees, nursery stock, truck garden products and similar plant materials.

**PROFESSIONAL ACTIVITIES.** The use of offices and related spaces for such professional services as are provided by doctors, dentists, lawyers, architects, engineers, and similar professions.

**PUBLIC USES.** Public parks, schools, and administrative, cultural and service buildings, not including public land buildings devoted solely to the storage and maintenance of equipment and material.

**RECREATIONAL FACILITIES.** Country and archery clubs, riding clubs, golf courses and other private, non-commercial recreation area and facilities, or recreational centers including private community swimming pools.

**RESIDENTIAL FLOOR AREA.** The interior floor area of a dwelling, including stairways, halls and closets but not including basements, breezeways, porches, garages or carports.

**SEMI-PUBLIC USES.** Churches, Sunday schools, parochial schools, colleges, hospitals and other institutions of an educational, religious, charitable or philanthropic nature.

**SEWAGE DISPOSAL SYSTEM, GROUP OR CENTRAL.** An approved system which provides for the combined collection and disposal of residential, commercial and/or industrial sewage.

**SEWAGE DISPOSAL SYSTEM, INDIVIDUAL.** An on-site system provides for the individual collection and disposal of sewage.

**SIGN(S).** Free-standing, suspended, one or more sided, wall, roof, pole, window, yard, A-frame, sandwich-board, billboards, advertising, permanent or

temporary, political, and all similar such types, illuminated or not.

**SOCIAL ACTIVITIES.** Any building and land used for private or semi-private club activities, including lodges, fraternities and similar activities.

**SOLICITOR.** The Solicitor of the municipality.

**SPECIALIZED ANIMAL RAISING AND CARE.** The use of land and buildings for the raising and care of fur-bearing animals such as rabbits and domestic pets; the stabling and care of horses; animal kennels; and the raising of any other domestic animals or birds of a similar nature. (See also, SCO § 90.26 Farm Animals Prohibited)

**STATUTORY AGRICULTURAL DISTRICT.** An area of land used for agricultural purposes defined in R.C. § 929.01 formed into a district for five-year terms pursuant to the procedures provided under R.C. § 929.02. Successful placement of farmland in such a district entitles the land to limited exemption from governmental appropriation and/or assessment of the land and provides the owners with limited liability from nuisance suits.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it.

**STREET LINE, RIGHT-OF-WAY LINE.** A dividing line between a lot, tract or parcel of land and a contiguous street.

**STRUCTURE.** Anything assembled, constructed or erected, other than a building, the design and use of which requires adequate support and strength to resist all forces likely to impact its stability and safety, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts and baseball diamonds, and similar designs and uses.

**STRUCTURAL ALTERATIONS.** Any change which would tend to prolong the life of a supporting member of a structure, such as bearing walls, columns, beams or girders.

**TOURIST HOME.** A building other than a hotel where lodging is provided and offered to the public for compensation for not more than 20 individuals and open to transient guests.

**VILLAGE ENGINEER.** The professional engineer for the municipality, either under contract or as employee, principally responsible for all village controlled systems

below grade such as storm sewers, retention basins, sanitary sewers, water supply systems, and where applicable, gas and electrical. Also oversees design, construction and maintenance of streets, alleys, curbs, guardrails, final grades, water towers, and all similar aspects of municipal infrastructure.

**YARD.** An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

**YARD, FRONT.**

(1) A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than projections of the usual uncovered steps, uncovered balconies or uncovered porch.

(2) On corner lots, there shall be two front yards, a side yard and a rear yard. On interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

**YARD, REAR.** A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof, other than the projections of uncovered steps, unenclosed balconies or unenclosed porches.

**YARD, SIDE.** A yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot and the side of the main building or any projections thereto.

**ZONING CERTIFICATES.** The document issued by the Zoning Inspector authorizing the use of land or buildings.

**ZONING INSPECTOR.** The Zoning Inspector or his or her authorized representative appointed by the Council of the municipality.  
(Ord. 76-43, passed 12-13-1976; Am. Ord. 98-22, passed 7-27-1998; Am. Ord. 2006-10, passed 6-26-2006; Am. Ord. 2017-4, passed 3-27-2017)

**§ 153.004 VALIDITY.**

If any article, section, subsection, paragraph, sentence or phrase of this chapter is for any reason held to be invalid

by a Court of competent jurisdiction, the decision shall not effect the validity of the remaining portions of this chapter.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.005 EFFECTIVE DATE.**

This code shall supersede any previous village zoning ordinance and become effective from and after the date of its approval and adoption as provided by law.  
(Ord. 76-43, passed 12-13-1976)

**DISTRICTS AND GENERAL PROVISIONS**

**§ 153.015 DISTRICTS.**

The incorporated area of Smithville, Ohio, is hereby divided into districts, of which there shall be eight in number known as:

- (A) "A-1," agricultural district;
- (B) "F-1," conservation and flood district;
- (C) "R-1," suburban residence district;
- (D) "R-2," residence district;
- (E) "R-3," multiple residence district;
- (F) "C-1," central commercial district;
- (G) "C-2," highway commercial district; and
- (H) "M-1," industrial district.

(Ord. 76-43, passed 12-13-1976)

**§ 153.016 DISTRICT MAP.**

(A) The boundaries of the districts are shown upon the map which is made a part of this chapter, which map is designated as the "District Map". The district map and all the notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the district map and all the notations, references and other information shown thereon were all full set forth or described therein, the original of which district map is properly attested and is on file with the Village Clerk.

(B) No changes of any nature shall be made in the Official District Map or matter shown thereon except in conformity with the procedures set forth in this chapter.

(C) The Official District map, which shall be located in the office of the Village Clerk shall be the final authority as to the current zoning status of land and water areas, buildings and other structures.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.017 DISTRICT BOUNDARIES.**

(A) The district boundary lines on said map are intended to follow either lot lines or centerlines of streets or alleys, and where the districts designated on the map are bounded approximately by such lot lines, centerlines or streets or alleys, the lot line or centerlines of streets or alleys shall be construed to be the boundary of the district unless such boundary is otherwise indicated on the map. In the case of unsubdivided property, the district boundary lines shall be determined by the use of the scale appearing on the Zoning District Map or by dimensions.

(B) Whenever any street, alley or other public way is vacated by official action of the Council of Smithville, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of the vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.018 COMPLIANCE WITH REGULATIONS.**

The regulations set forth by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided:

(A) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(B) No building or other structure shall hereafter be erected or altered:

- (1) To exceed the height;
- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area; and
- (4) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required or in any other manner contrary to the provisions of this chapter.

(C) No part of a yard or other open space or off-street parking or loading space required about or in connections with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(D) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.019 NON-CONFORMING USES.**

(A) Any lawful use of any dwelling, building, structure or land existing at the effective date of this chapter may be continued, even though such use does not conform to the provisions hereof. The non-conforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for the use at the time of adoption of the chapter. No non-conforming building or structure shall be moved, extended, enlarged or altered except when authorized by the Board of Appeals in accordance with the provisions of §§ 153.110 *et seq.*

(B) Whenever the use of a building or land shall become non-conforming through a change in this chapter or in the district boundaries, such use may be continued, and may be changed to another non-conforming use of the same or of a more restricted classification.

(C) A non-conforming use which is discontinued for a continuous period of two years shall not again be used



except in conformity with the regulations of the district in which the building or land is located.

(D) A non-conforming building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than 60% of its reproduction value at the time of damage shall not be restored except in conformity with the regulations of the district in which it is located. When damaged by less than 60% of its reproduction value, a non-conforming building may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within one year of the date of the damage.

(E) Non-conforming trailers or mobile homes located on a lot in any district other than "R-3" District, once removed shall not be relocated on the lot unless the unit was "traded-in" for another unit. In this instance, the replacement shall be on site within one week of the removal of the previous unit.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.020 TRAFFIC VISIBILITY ACROSS CORNER LOTS.**

In any district on any corner lot no fence, structure or planting shall be erected or maintained within 30 feet of the "corner" at a height between two and one-half and ten feet above curb or street grade or so as to interfere with traffic visibility across the corner.  
(Ord. 76-43, passed 12-13-1976)

**GENERAL REGULATIONS**

**§ 153.035 USE REGULATIONS.**

The permitted and conditional uses for each district are shown on the accompanying table. The interpretation of uses given in categorical terms shall be defined in § 153.003. Uses not specifically listed or interpreted by the Board of Zoning Appeals to be included categorically under §§ 153.015 *et seq.* and this subchapter shall not be permitted except by amendment to this chapter.  
(Ord. 76-43, passed 12-13-1976)

<i>District</i>	<i>Permitted Uses</i>
A-1, Agriculture	Plant cultivation
	Public uses
	Semi-public uses
	Public service utility
	Essential services
	Accessory uses
F-1, Conservation and Flood	Permitted uses in A-1
	Parks
R-1, Suburban Residence	Single-family dwelling
	Plant cultivation
	Public uses
	Semi-public uses
	Essential services
	Accessory uses
R-2, Residence	Permitted uses in R-1
	Two-family dwelling
	Cluster dwelling
R-3, Multiple Residence	Permitted uses in R-1 and R-2 Districts
	Multiple-residence
C-1, Central Commercial	Retail business
	Personal services
	Business services
	Professional activities
	Commercial schools
	Offices and banks
	Restaurants
	Automotive sales
	Tourist homes
	Entertainment facilities
	Mortuaries

Smithville - Land Usage

<i>District</i>	<i>Permitted Uses</i>
C-1, Central Commercial (Cont'd)	Public uses
	Semi-public uses
	Social activities
	Essential services
	Accessory uses
C-2, Highway Commercial	Gasoline stations
	Restaurants
	Motels and hotels
	Entertainment facilities
	Automotive sales
	Automotive repair
	Drive-in commercial uses
	Farm implement sales and service
	Public uses
	Social activities
	Essential services
	Accessory uses
	Agriculture
M-1, Industrial	General manufacturing
	Food processing
	Printing
	Research and testing facilities
	Transport and trucking terminal
	Farm implement sales and service
	Offices
	Public service facilities
	Essential services
	Accessory uses
	Sale and storage of building materials
	Agriculture

<i>District</i>	<i>Conditional Uses (Requiring Zoning Board of Appeals Approval)</i>
A-1, Agriculture	Single-family dwelling
	Recreational facility
	Cemetery
	Specialized animal raising and care
	Oil and gas wells
	Sand, gravel, topsoil extraction
	Airports
	Home occupations
F-1, Conservation and Flood	Public service facilities
	Recreational facility
	Oil and gas wells
	Sand, gravel, topsoil extraction
	Specialized animal raising and care
R-1, Suburban Residence	Public service facility
	Non-commercial recreational facility
	Cemetery
	Specialized animal raising and care
	Home occupations
	Oil and gas wells
	Sand, gravel, topsoil extraction
R-2, Residence	Public service facility
	Non-commercial recreational facility
	Cemetery
	Nursery school
	Child care clinic
	Tourist homes
	Professional activities
	Home occupations

Smithville - Land Usage

<i>District</i>	<i>Conditional Uses (Requiring Zoning Board of Appeals Approval)</i>
R-3, Multiple Residence	Mobile home parks
	Non-commercial recreational facilities
	Cemetery
	Nursery school
	Child care clinic
	Tourist homes
	Professional activities
	Nursing homes
	Mortuaries
	Home occupations
C-1, Central Commercial	Taverns
	Gasoline stations
	Wholesale businesses
	Drive-in commercial uses
	Animal hospitals or clinics
	Sale or storage of building materials
	Motels and hotels
	Recreational facilities
	Outdoor advertising
	Printing and publishing
	Automotive repair
C-2, Highway Commercial	Semi-public uses
	Taverns
	Outdoor advertising
	Wholesale business
	Sale or storage of building materials
	Animal hospitals and clinics

<i>District</i>	<i>Conditional Uses (Requiring Zoning Board of Appeals Approval)</i>
M-1, Industrial	Restaurants
	Wholesale business
	Warehousing
	Oil and gas wells
	Sand and gravel extraction
	Mineral extraction, storage and processing

<i>Height, Lot Area and Floor Area Minimum Requirements</i>										
<i>Letter Symbol</i>	<i>District</i>	<i>Maximum Height of Buildings (Stories)</i>	<i>Maximum Height of Buildings (Feet)</i>	<i>Minimum Depth of Front Yard</i>	<i>Minimum Width of Each Side Yard</i>	<i>Minimum Depth of Rear Yard</i>	<i>Maximum % of Lot Coverage</i>	<i>Minimum Lot Area in Square Feet Per Family</i>	<i>Minimum Lot Frontage</i>	<i>Minimum Floor Area in Square Feet Per Family</i>
A-1	Agricultural	2-1/2	35	60	20	40	10	1 acre	150	1,000
R-1	Suburban Residence	2-1/2	35	50	15	40	10	1 acre	120	1,000
R-2	(Municipal Sewage Disposal and Water Supply) Single-family	2-1/2	35	35	10	30	20	12,000	85	800
	Two-Family	2-1/2	35	35	10	30	20	15,000	100	800
	Cluster dwelling	As permitted and as regulated in § 153.058								
R-3	Multiple Residence (Municipal Sewage Disposal and Water Supply Systems) Single-family	Same requirement as R-2 Residence Districts								
	Two-family	Same requirement as R-2 Residence Districts								
	Cluster Dwelling	As permitted in R-2 Residential District								
	Multiple family	3	35	25	10	30	25	5,000	100	800
	Mobile home	As prescribed in § 153.051								

Letter Symbol	District	Maximum Height of Buildings (Stories)	Maximum Height of Buildings (Feet)	Minimum Depth of Front Yard	Minimum Width of Each Side Yard	Minimum Depth of Rear Yard	Maximum % of Lot Coverage	Minimum Lot Area in Square Feet Per Family	Minimum Lot Frontage	Minimum Floor Area in Square Feet Per Family
C-1	Central Commercial	3	45	None	None(2)	20(3)	75			
C-2	Regional Commercial(5)	3	45	50	20	25(3)	25			
M-1	Industrial(5)	3	45	50	20(4)	20(3)	35			
F-1	Conservation and Flood(5)	2-1/2	35	50	20	40	10			

**NOTES TO TABLE:**  
 (1) A front yard of 60-foot depth shall be required for all lots fronting on federal or state highways.  
 (2) No side yard shall be required, except that a side yard of not less than 20 feet in width shall be provided on the side of a lot adjoining a residential district. See § 153.077.  
 (3) A rear yard of not less than 20 feet in a C-1 district and not less than 50 feet in a C-2 district and 100 feet in an M-1 district is required where a lot abuts upon a residential district. See § 153.077.  
 (4) A side yard of not less than 100 feet is required where a lot adjoins a residential district. See § 153.077 for exceptions.  
 (5) No residence permitted.

(Ord. 76-43, passed 12-13-1976; Am. Ord. 1979-27, passed 8-31-1979; Am. Ord. 1980-53, passed 1-26-1981; Am. Ord. 2006-10, passed 6-26-2006)

**§ 153.036 HEIGHT, LOT AREA AND FLOOR AREA REQUIREMENTS.**

The height, lot area and floor area requirements for the location and erection of buildings on any lot or tract of land are established and shown on the above table.  
 (Ord. 76-43, passed 12-13-1976)

**§ 153.037 OFF-STREET PARKING AND LOADING REQUIREMENTS.**

*(A) Off-street loading requirements.*

(1) In any district, in connection with every building or part thereof hereafter erected and having a gross floor area of 3,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with the building at least one off-street loading

space for each 10,000 square feet or major fraction thereof of gross floor area so used in excess of 10,000 square feet.

- (2) Each loading space shall be not less than 12 feet in width, 40 feet in length and 14 feet in height.
- (3) Subject to the limitations in division (A)(4) below, the space may occupy all or any part of any required yard or court space.

(4) No such space shall be located closer than 50 feet to any other lot in any "R" District unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence not less than six feet in height.  
 (Ord. 76-43, passed 12-13-1976)

*(B) Off-street parking space requirements.*

(1) In all districts, in connection with every industrial, business, institutional, recreational, residential or any other use, there shall be provided, at any time any building or structure is erected or is enlarged or increased in

capacity, off-street parking spaces for automobiles in accordance with the following requirements:

(a) Each off-street parking space shall have an area not less than 180 square feet (measuring nine feet wide and 20 feet long) exclusive of access drives or aisles and shall be of usable shape.

(b) There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does not abut a public or private alley or easement of access, there shall be provided an access drive not less than eight feet in width in the case of a dwelling and not less than 18 feet in width in all other cases, leading to the parking or storage areas or loading or unloading spaces required hereunder in such manner as to secure the most appropriate development of the property in question, but, except where provided in connection with a use permitted in an "R" District, such easement of access or access drive shall not be located in any "R" District.

(2) In all districts there shall be provided at the time any building or structure is erected or structurally altered (except as provided herein) off-street parking spaces in accordance with the following minimum requirements:

[Next page of text is page 49]



**Smithville - Land Usage**

<i>Use</i>	<i>Parking Spaces Required</i>
Dwellings for one family	1 space
Dwellings, including 1,2, and 3 families,	½ for each family multiple dwellings, and mobile homes
Rooming or boarding house, tourist	1 for each sleeping room or suite home, hotel or motel
Private club, golf club, or lodge	1 for each 5 members
Church, temple, or other religious building	1 for each 5 seats in main auditorium
School (except secondary school)	1 for each 6 seats in auditorium or main assembly room, or 1 for each classroom, whichever is greater
Secondary or junior high school	1 for each 6 seats in main auditorium, or 1 for each classroom, whichever is greater
Community center, library, or museum	10 plus 1 additional for each 300 square feet of floor area in excess of 2,000 square feet
Hospital, sanitarium, convalescent home,	1 for each 3 beds home for the aged or similar institution
Theater or auditorium (except school seats or bench auditorium), sports arena, stadium or eating gymnasium	1 for each 5 spaces

Bowling alley	4 for each lane
Mortuary or funeral home	1 for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms
Personal or professional services; restaurants, nightclubs, cafes or similar recreational or amusement establishments, dance halls, assembly or exhibition halls without fixed seats	
Retail business or business service establishment except as otherwise specified herein	1 for each 150 square feet of gross floor area
Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service	1 for each 300 square feet of gross floor area
Printing or plumbing shop or similar service establishment	1 for each 2 persons employed therein
Manufacturing or industrial establishment, research or testing laboratory, dairy, bakery, warehouse or similar establishment	1 for each 2 employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith

(3) In computing the number of spaces required in division (B)(2) above, the following rules shall govern:

(a) "Floor area" shall mean the gross floor area of the specified area.

(b) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

(c) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.

(d) Whenever a building or use constructed or established after the effective date of this chapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase of 10% or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this chapter is enlarged to the extent of 50% or more in the floor area or in the area used, the building or use shall then and thereafter comply with parking requirements set forth herein.

(4) Other than for one-, two-, or three-family dwellings, ADAAG (Americans with Disabilities Act, Accessibility Guidelines) parking spaces shall be provided in the manner adopted by the Ohio Building Code, and as further described in Ohio Administrative Code (OAC) 4101:1-11-01.

*(C) Special parking provisions.*

(1) The parking of a disabled vehicle within a residential district for a period of more than two weeks shall be prohibited; except that such vehicles may, be stored in an enclosed garage or other accessory building provided that no business shall be conducted in connection therewith while such vehicles are parked or stored.

(2) All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where the spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located not to exceed 300 feet from an institutional building served and not to exceed 500 feet from any other non-residential building served.

(3) Not more than 50% of the parking spaces required for:

(a) Theaters, bowling alleys, dance halls, nightclubs or cafes, and up to 100% of the parking spaces required for a church or school auditorium, may be provided and used jointly by;

(b) Banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in division (C)(3)(a) above; provided, however, that written agreement thereto is properly executed and filed as specified in division (C)(4) below.

(4) In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the Solicitor and executed by the Council and shall be filed with the application for a building permit.

*(D) Development and maintenance of parking areas.* Every parcel of land hereafter used as a public, commercial or private parking area shall be developed and maintained in accordance with the following requirements.

(1) *Screening and landscaping.* Off-street parking areas for more than five vehicles shall be effectively screened on each side which adjoins or faces premises situated in any "R" District, or institutional premises, by a masonry wall or solid fence of acceptable design. The wall or fence shall be not less than four feet or more than six feet in height and shall be maintained in good condition without advertising thereon. The space between such wall or fence and the lot line of the adjoining premises in any "R" District shall be landscaped with grass, hardy shrubs, or evergreen ground cover and maintained in good condition. In lieu of such wall or fence, a strip of land not less than 15 feet in width and planted and maintained with an evergreen or

dense planting of evergreen shrubs not less than four feet in height may be substituted.

(2) *Minimum distances and setbacks.* No part of any parking area for more than five vehicles shall be closer than ten feet to any dwelling, school, hospital or other institution for human care located on an adjoining lot, unless screened by a masonry wall of acceptable design and without penetrations. If on the same lot with a main building, the parking area shall not be located within the front yard or side street side yard required for such building. In no case shall any part of a parking area be closer than five feet to any established street or alley right-of-way. The wall or hedge required herein shall be set back from each street, the same as if it were a building wall, so as to observe the front yard and side street side yard requirements of this chapter.

(3) *Surfacing.* Any off-street parking area for more than five vehicles shall be graded for proper drainage and surfaced with an asphaltic or Portland cement binder pavement or a durable and dustless surface and shall be so arranged and marked as to provide for orderly and safe parking and storage of self-propelled vehicles. (Ord. 76-43, passed 12-13-1976; Am. Ord. 2017-4, passed 3-27-2017)

**SPECIAL PROVISIONS**

**§ 153.050 PERFORMANCE REQUIREMENTS.**

(A) (1) No land or building in any district shall be used or occupied in any manner so as to create or allow to remain thereon or therein: any dangerous, injurious, odiferous, noxious, or otherwise objectionable fire, explosive, material, hazardous or otherwise; noise or vibration; smoke, dust, odor or other form of air pollution; heat, cold, dampness; electrical or other disturbance; glare, liquid or solid refuse or wastes; or other substance, condition or element in such a manner or amount as to adversely affect the surrounding area or adjoining premises provided that any use permitted or not expressly prohibited by this section may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements or conditions to acceptable limits and tolerances. at the following points of observation:

(a) In any "R" District and "C-1" and "C-2" Districts, 25 feet from the establishment or use;

(b) In "M" and "A-1" Districts, at the boundaries of the District, or at any point within an adjacent "R" District.

(2) Where necessary, The Zoning inspector or Board of Zoning Appeals, prior to issuance of a zoning certificate, may require the submission of statements and plans indicating the manner in which dangerous and objectionable conditions are to be eliminated or reduced to acceptable limits and tolerances.

(B) (1) Except as otherwise provided herein, no new building, alteration of an existing building or other improvement shall be erected, constructed, permitted or maintained on any land in the municipality, unless the surface water drainage plans therefor have first been submitted to and approved by the Smithville Planning Commission.

(2) Where necessary to protect Smithville lands and residents from property damage or injury reasonably expected to be caused by surface water run-off as a result of any such new building, alteration or other improvement. The Planning Commission may require as a condition for approval of the plan, employment of the measures and safeguards, including, but not limited to construction, installation and maintenance on a continuing basis, of the water retainage basins, drains, and other control devices as may be reasonably necessary to limit the impact of any increased risk of flooding caused by or resulting from such new building, alteration or improvement.

(3) The Zoning Inspector or Board of Zoning Appeals, prior to issuance of a zoning certificate, shall require the applicant to present a statement either attached to or stamped upon the application and signed by the presiding officer of the Planning Commission stating "Surface Water Drainage Plan Approved" or words to that effect. The Planning Commission may dispense with the requirement for such a plan if finds that the new building, alteration or improvement will not have an appreciable impact upon the surface water drainage in the surrounding area. In such case, the phrase, " Surface Water Drainage

Plan Not Necessary” shall be indicated and signed in the same formality as provided for approval, above.  
(Ord. 76-43, passed 12-13-1976; Am. Ord. 1989-16, passed 5-22-1989; Am. Ord. 98-22, passed 7-27-1998)

**§ 153.051 MOBILE HOME PARK RESIDENCE.**

(A) No mobile homes, trailers, or similar portable residence structures shall be permitted to locate in the municipality except in a Mobile Home Park in an “R-3” Residence District.

(B) The mobile home park shall conform to the following requirements:

- (1) Shall contain a minimum of six acres;
- (2) Shall provide an adequate supply of pure water;
- (3) Shall provide an adequate system of collective sanitary sewers, sewage treatment and disposal;
- (4) Shall provide a clearly defined minimum area of 4,000 square feet including a minimum width of 30 feet for each mobile home or trailer;
- (5) Shall provide a minimum 15 feet clearance between individual mobile homes or trailers, and a 15 foot setback from any property line bounding the mobile home park;
- (6) All mobile home spaces shall abut a driveway of not less than 20 feet in width, which shall have unobstructed access to a private or public street; and
- (7) A safe, usable recreation area shall be conveniently located in each trailer park and shall not be less than 20% of the gross area of the trailer park.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.052 TRAILERS, MOTELS, MOTOR HOMES.**

(A) Parking of a trailer in any district for 48 hours or a longer period of time shall be prohibited, except for small utility, boat and vacation trailers when authorized by Board of Zoning Appeals and except that one trailer may be stored in an enclosed garage or other accessory building, provided that in all cases no living quarters shall be maintained or any business conducted in connection

therewith while the trailer is parked or stored, and to insure compliance therewith, a zoning certificate shall be required. The parking of a trailer, other than utility, boat or vacation for less than 48 hours outside of an enclosed garage or another accessory building shall be permissible only after the Zoning Inspector has been, notified of the intention.

(B) Motels or motor hotels shall comply with the sanitary regulations prescribed by the county’s Health Authorities and as may otherwise be required by law, and in addition shall comply with the following regulations:

- (1) Any lot to be used for a motel shall not be less than two acres in area. All buildings and structures shall be distant at least 50 feet from a rear lot line and at least 25 feet from the front and side lot lines. The buildings and structures on the lot shall not occupy in the aggregate more than 25% of the area of the lot.
- (2) All areas not used for access, parking, circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.053 SIGNS: BILLBOARDS, OUTDOOR ADVERTISING, PERMANENT OR TEMPORARY, POLITICAL, AND THE LIKE.**

(A) Outdoor advertising signs and structures, where permitted shall be set back 50 feet from the established right-of-way line of any street or highway, or as far as the required front yard depth for a principal building in such districts, whichever is the greater distance; provided that for every square foot by which the signs or billboards exceed 80 square feet, the setback shall be increased by one-half foot but need not exceed 100 feet, except that at the intersection of any state or federal highway with a major or secondary street any outdoor advertising sign or billboard shall not be less than 200 feet from the established right-of-way of each such highway or street.

(B) No such billboard, sign, or advertising structure shall be permitted which faces the front or side lot line of any lot in any “R” District within 100 feet of such lot line or which faces any public parkway, public square or entrances to any public park, public or parochial school, library, church or similar institution within 300 feet thereof.

(C) Non-illuminated real estate signs, advertising the sale, rental or lease of the premises on which they are

maintained and not over 12 square feet in aggregate area shall be permitted on any lot 100 feet or less in width. Larger signs shall be permitted for two or more lots in single ownership or for properties with frontages in excess of 100 feet provided that the signs shall not exceed a maximum area of 150 square feet. The signs shall be set back from every street lot line at least a distance in feet equal to the number of square feet in the area of the sign, but such setback shall not be less than the least depth of the required front yard. Real estate signs, not exceeding six square feet in area and when attached flat against the building to which it pertains, shall be permitted in any case.

(D) Small announcement or professional signs, where permitted, shall not exceed two square feet in area, except that a church, school, community center, or other public or institutional building may have for its own use an announcement sign or bulletin board not over 12 square feet in area, which, if not attached flat against a building, shall be at least 12 feet from all street lines. Wall signs pertaining to a non-conforming use shall be permitted if on the same premises as such use and not exceeding in the aggregate 20 square feet in area or two feet in one dimension.

(E) Every conforming business located in a "C-1", "B-2" or "M" district may have one free standing sign advertising the nature of the business provided the sign is on the same property as the main building. The total area of the sign, on either side, shall not exceed 60 square feet, and the bottom of the sign shall be located at a minimum of ten feet above grade. The furthest overhang of the sign shall be no nearer than two feet to the street right-of-way in a "C-1" District or ten feet in a "C-2" or "M" District.

(F) No sign or advertising structure shall be located, placed or arranged so as to impair traffic visibility at any intersection or at an entrance or exit to any use of any property.

(G) Temporary signs, of any configuration, typically placed for special events may not exceed 30 days; no-fee permits are required. Size may not exceed three feet by four feet. Set-back requirements by Zoning District. Placement may not impair traffic visibility at intersections or at entrances or exits to any use of any property.

(H) Political signs may be placed no earlier than 30 days before an election, and remain only seven days after the election; no permits required. Size not to exceed four feet by eight feet.

(I) All of the signs referred to in this section may be illuminated, provided the source of light is not visible and no flashing or blinking lights are permitted. The source, design, and/or placement of illumination must not create a public or private nuisance for vehicular traffic, nor for the normal and acceptable tranquility of the neighborhood.

(J) All signs shall be maintained in good appearance and repair.  
(Ord. 76-43, passed 12-13-1976; Am. Ord. 2017-4, passed 3-27-2017)

**§ 153.054 PLANNED UNIT DEVELOPMENT (PUD).**

(A) The owner or owners of any tract of land comprising an area of not less than ten acres may submit to the Council a plan for the use and development of all of the tract of land for residential and allied purposes. The development plan shall be referred to the Planning Commission for study and report and for public hearings. Notice and publication of the public hearings shall conform to the procedures prescribed herein for hearings on changes and amendments. If the Commission approves the plans, these shall be submitted to the Council for consideration and action. The approval and recommendations of the Commission shall be accompanied by a report stating the reasons for approval of the application and specific evidence and facts showing that the proposed community development project meets with the following conditions:

(1) The property adjacent to the area included in the plan will not be adversely affected;

(2) The plan is consistent with the intent and purposes of this chapter to promote public health, safety, morals and general welfare;

(3) The use of the land shall be similar to the uses permitted in the district in which the plan is located;

(4) That the average lot area per family contained in the site, exclusive of the area occupied by streets, will not be less than the lot area per family required in the district in which the development is located;

(5) That the Planning Commission has consulted with the Village Council and the Board of Public Affairs to determine that a documented plan exists

whereby public facilities such as sewer, water, street lights, storm sewer, police and fire protection and the like, can be adequately provided in accordance with the general welfare without unreasonable tax and utility cost increases.

(B) If the Council approves the plans, a zoning certificate may be issued, even though the use of the land, the location and height of buildings to be erected in the area and the yards and open space contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located. (Ord. 76-43, passed 12-13-1976; Am. Ord. 1979-29, passed 8-31-1979)

**§ 153.055 PRIVATE SWIMMING POOLS.**

(A) A private swimming pool shall be any pool, pond, lake or open tank where swimming is normally permitted, not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half feet.

(B) No such swimming pool shall be allowed in any "A", "F", or "R" District except as an accessory use and unless it complies with the following conditions and requirements:

(1) The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.

(2) It may not be located, including any walks or paved areas or accessory structures adjacent thereto, closer than ten feet to any property line of the property on which located.

(3) The swimming pool, or the entire property on which it is located shall be so as to prevent uncontrolled access by children from the street or from adjacent properties, the fence or wall to be not less than four feet in height and maintained in good condition, with a gate and lock.

(Ord. 76-43, passed 12-13-1976)

**§ 153.056 TEMPORARY BUILDINGS.**

Temporary buildings used in conjunction with construction work only, may be permitted in any district

during the period that the construction work is in progress, but the temporary buildings shall be removed upon the completion of the construction work. (Ord. 76-43, passed 12-13-1976)

**§ 153.057 STATUTORY AGRICULTURAL DISTRICTS.**

(A) Applications for placement of farmland in an Agricultural District pursuant to R.C. § 929.02, shall be processed in accordance with the provisions of that statute.

(B) Upon receipt of an application for placement of farmland in an agricultural district pursuant to R.C. § 929.02, the Clerk shall:

(1) Immediately schedule the application for a public hearing during either a regular or special meeting of Council not more than 30 days after the application was filed with the Clerk;

(2) Notify the applicant of the date and time of the hearing by certified mail sent at least 10 days prior to the date of hearing;

(3) Cause notice of the hearing to be published in the daily record at least 7 days prior to the hearing; and

(4) Invite the members of The Planning Commission to attend the legislative hearing and otherwise comply with any other local governmental requirements for notice.

(C) Council shall conduct its hearing in accordance with the provisions of R.C. § 929.02; in addition to the evidence enumerated therein, Council shall consider any previous application made by the applicant or its predecessor in title.

(D) Within 30 days after the hearing, the Council shall render its decision. Council may either approve the application, approve the application with written modifications subjecting the land to municipal zoning and other regulations or reject same with reasons stated in writing. Council's rejection of any such application shall not disqualify or otherwise prevent the applicant from reapplying at a later time.

(E) Within five days of the Council's decision, the Clerk shall send a copy of same to the applicant and the Wayne County Auditor by certified mail.

(F) The Clerk shall maintain a record of all papers connected with the application in accordance with local laws pertaining to administrative proceedings. (Ord. 98-22, passed 7-27-1998)

a public road shall be designed and improved as provided in the Subdivision Regulations.

(D) *Density (Lot area per dwelling unit).* Minimum 7,000 square feet per unit exclusive of public rights-of-way.

§ 153.058 CLUSTER DWELLINGS.

(E) *Utilities.* Municipal water supply and sanitary sewers required. Tap-in requirements and fees shall be determined by the Board of Public Affairs.

(A) *Cluster dwelling defined.* A **CLUSTER DWELLING** is a detached single-family dwelling and/or two to four attached dwellings planned as a unified development at a density greater than required for single-family or two-family development and less than permitted in a Multiple Residence District. Cluster dwellings are permitted in R-2 and R-3 Residence Districts, provided there is a municipal water supply and sanitary sewers

(F) *Yard requirements.*

(1) Front: 20 feet from street right-of-way; corner lots 20 feet from each street right-of-way.

(B) *Lot requirements.* Each cluster dwelling shall front on a public dedicated street for the required lot width, except that on a curved street or at the end of a cul-de-sac the required frontage shall not be less than 60% of the required lot width. The minimum area of the development shall be not less than three acres. If lots are proposed to be sold the following minimum lot requirements shall be as follows:

(2) Side: 10 feet to each side lot line. In condominium development distance between buildings shall be not less than 20 feet.

(3) Rear: 30 feet to rear lot line. In condominium development the distance between buildings shall be not less than 60 feet.

(1) Minimum lot area:

(4) Side/rear: In a condominium development the distance between the side of one building and the rear of another building shall be not less than 40 feet.

(a) One unit: 5,000 square feet;

(5) Utility easements shall be not less than 10 feet from a cluster dwelling.

(b) Two units attached: 8,000 square feet;

(G) *Required open space.* Not less than 25% of the development area shall be in permanent open space. This area is exclusive of all required yards and required distances between buildings and public rights-of-way.

(c) Three units attached: 11,000 square feet;

(H) *Maximum lot coverage.* Maximum coverage of each individual lot shall be not more than 40%. Maximum coverage of the development area shall be not more than 35%.

(d) Four units: 14,000 square feet.

(2) Minimum lot width:

(I) *Maximum building height.* The maximum building height shall be two stories and shall not be more than 25 feet. Building height is defined as the vertical distance measured from the grade level to the highest point of the building.

(a) Width of the dwelling plus 20 feet but not less than 50 feet for one unit;

(b) 80 feet for a two-unit building;

(J) *Off-street parking.* There shall be not less than three off-street parking spaces per unit. One of the spaces shall be in an enclosed garage attached to the dwelling unit; the second space may be in a driveway, and the third may be in an off-street parking area in the development or in a driveway.

(c) 110 feet for a three-unit building; and

(d) 140 feet for a four-unit building.

(C) *Required procedures.* If individual lots are to be created and sold the proposed development shall follow the procedures as provided in Chapter 152, the Village Subdivision Regulations. For condominium developments,



(K) *Minimum dwelling unit areas.* The minimum floor area shall be not less than 1,000 square feet.

(L) *Landscaping.* All open space areas not kept in a natural state and all yard areas shall be landscaped and maintained with grass, trees and shrubs. Plant materials shall be selected that are indigenous and moderately fast growing. The landscape design shall incorporate the entire development area and consist of an assortment of plants with year-round appeal, which may include annuals, perennials, shrubs, and trees.

(M) *Development plans.* Preliminary and final development plans are required in subdivisions and condominium developments as provided in § 153.094(D). (Ord. 2006-10, passed 6-26-2006)

**§ 153.059 ACCESSORY BUILDINGS AND STRUCTURES.**

(A) Unattached buildings and structures such, as garages, utility or storage sheds, which are normally incidental to, subordinate to and devoted exclusively to the main use of the land or buildings.

(B) Only two accessory buildings are permitted per lot or parcel of land. The maximum size allowed for a garage-type building is 600 square feet (typically 24 feet by 25 feet). The maximum size utility or storage shed allowed is 192 square feet (typically, 12 feet by 16 feet).

(C) Accessory buildings or structures may have either a permanent foundation, or, placed on a rubble base or cement pad, or, may be placed directly on the ground provided the construction design allows. In all cases, the accessory building or structure, must be adequately anchored to control uplift or movement in a manner consistent with all other buildings and structures for this area and climate. (Ord. 2017-4, passed 3-27-2017)

**EXCEPTIONS AND MODIFICATIONS**

**§ 153.070 GENERAL.**

Requirements and regulations specified in this chapter shall be subject to the exceptions, modifications and interpretations set forth in this subchapter. (Ord. 76-43, passed 12-13-1976)

**§ 153.071 EXISTING LOTS OF RECORD.**

In any district where dwellings are permitted a one-family detached dwelling may be erected on any lot of official record as of the effective date of this chapter, irrespective of its area or width, provided the owner of the lot does not own any adjoining property, except that no lot shall be deemed to be less than 50 feet wide for the calculation of yard requirements and provided further:

(A) The sum of the side yard widths on any such lot need not exceed 30% of the width of the lot, but in no case shall the width of any side yard be less than then 10% of the width of the lot, provided, however, that on a corner lot the width of the side yard adjoining the side street lot line shall not be less than eight feet or 20% of the frontage, whichever is the greater.

(B) The depth of the rear yard on any such lot need not exceed 20% of the depth of the lot, but in no case shall it be less than 20 feet.

(C) Where three or more contiguous unimproved lots of record with less than the required area and width are held. by one owner the Commission may require replatting to fewer lots to permit compliance with minimum yard requirements. (Ord. 76-43, passed 12-13-1976)

**§ 153.072 HEIGHT.**

(A) The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyors and flagpoles, except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport.

(B) Public, semi-public or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding 60 feet, and churches and temples may be erected to a height not exceeding 75 feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located. (Ord. 76-43, passed 12-13-1976)

**§ 153.073 FRONT YARDS.**

(A) When 50% or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have a front yard which is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established, provided, however, that a front yard depth shall not be required to exceed 50% in excess of the front yard otherwise required in the district in which the lot is located.

(B) On lots having double frontage the required front yard shall be provided on both streets.

(C) An open, uncovered porch or paved terrace may project into a required front yard for a distance of not more than ten feet, but this shall not be interpreted to include or permit fixed canopies.

(D) Off-street parking facilities may be located within the required front yard of any "C" District or "M" District

**Smithville - Land Usage**

but shall not be nearer than 50 feet to any "A" or "R" District, and no off-street parking shall be permitted in the required front yard of any "A" or "R" District.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.074 SIDE YARDS.**

(A) On a corner lot, the width of the yard along the side street shall not be less than any required front yard on such street, provided, however the buildable width of a lot of record shall not be reduced to less than 40 feet.

(B) No accessory building shall project beyond a required yard line along any street.

(C) Where dwelling units are erected above commercial establishments no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district.

(D) A canopy may project into a required side yard provided every part such canopy is unenclosed.

(E) For the purpose of side yard regulation, a two-family dwelling or multiple dwelling shall be considered as one building occupying one lot.

(F) An owner of a dwelling erected prior to the effective date of this chapter may be permitted to enlarge or structurally alter such dwelling to provide additional enclosed space for living or garage purposes, provided, however, that no side yard shall be reduced to less than five feet.

(G) Where a lot of record at the time of the effective date of this chapter is of less width than the minimum lot width required in the district in which the lot is located, the minimum side yard may be reduced to 10% of the width of the lot, provided, however, that no side yard be less than five feet.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.075 REAR YARDS.**

(A) Where a lot abuts upon an alley, one-half the alley width may be considered as part of the required rear yard.

(B) An accessory building, not exceeding 20 feet in height may occupy not to exceed 30%; and unenclosed

parking spaces may occupy not to exceed 90% of the area of a required rear yard, but no accessory building shall be closer than ten feet to any rear lot line.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.076 SETBACK FROM PUBLICLY ESTABLISHED DRAINAGE DITCHES.**

In all districts a setback of 40 feet from the center line of a publicly established drainage ditch shall be provided for all buildings or structures erected along such ditch.  
(Ord. 76-43, passed 12-13-1976)

**§ 153.077 LANDSCAPING AND SCREENING PROVISIONS.**

For non-residential uses abutting "F" or "R" Districts the minimum yards may be reduced to 50% of the stated requirements if acceptable landscaping or screening, approved by the Zoning Inspector, is provided. The screening shall be a masonry of solid fence between four and six feet in height, maintained in good condition and free of all advertising or other signs. Landscaping, provided in lieu of such wall or fence shall consist of a strip of land not less than 15 feet in width planted with an evergreen hedge or dense planting of evergreen shrubs not less than four feet in height.  
(Ord. 76-43, passed 12-13-1976)

**ENFORCEMENT**

**§ 153.090 ZONING INSPECTOR.**

(A) It shall be the duty of the Zoning Inspector, who shall be appointed by the Council, to enforce this chapter. It shall also be the duty of all officials and employees of the municipality to assist the Zoning Inspector by reporting to him or her upon new construction, reconstruction or land uses or upon seeming violations.

(B) Appeal from the decision of the Zoning Inspector may be made to the Board of Appeals as provided in §§ 153.110 *et seq.*  
(Ord. 76-43, passed 12-13-1976)