

Ordinance 14-90
ZONING CODE

Kingston, Ohio

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ARTICLE 1 - TITLE, INTERPRETATION, AND ENACTMENT

SECTION 1.01

TITLE. This ordinance shall be known and may be cited as the "Zoning Code of the Village of Kingston, Ohio" or the "Zoning Code."

SECTION 1.02

PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing the higher standards shall govern.

SECTION 1.03

SEPARABILITY CLAUSE. Should any section or provision of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 1.04

REPEAL OF CONFLICTING ORDINANCE, EFFECTIVE DATE. All ordinances or parts of ordinances in conflict with this zoning ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect. This ordinance shall become effective 30 days from and after the date of its approval and adoption, as provided by law.

ARTICLE 2 - DEFINITIONS

SECTION 2.01

INTERPRETATION OF TERMS OR WORDS: For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows unless context clearly indicates the contrary: The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.

The words "used" or "occupied" include the words "intended, designed, maintained, or arranged to be used or occupied."

The word "lot" includes the words "plot," "parcel," or "tract."

SECTION 2.02

TERMS.

- (1) **ACCESSORY USE OR STRUCTURE:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- (2) **AGRICULTURE:** The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal, or poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.
- (3) **ALLEY:** See Thoroughfare.
- (4) **ALTERATIONS, STRUCTURAL:** Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
- (5) **AUTOMOTIVE REPAIR (Major Repairs):** A business whose functions may include motor replacement, transmission repair or replacement, exhaust system repair or replacement, body and fender repair, spray painting, upholstery work, auto glasswork, welding on vehicles, radiator repairs, and/or other similar major mechanical work.
- (6) **AUTOMOTIVE REPAIR (Minor Repairs):** A business whose functions may include oil and fluid changes; tune-ups; wheel balancing and mounting; minor tire repair; replacement of lamps, bulbs, filters, belts, valves, gaskets, and the like; and the repair or replacement of minor mechanical or electrical components.

- (7) **AUTOMOTIVE SALES:** The sale or rental of new and used motor vehicles, mobile homes, trailers, or farm implements, but not including repair work except incidental warranty repair of same to be displayed and sold on the premises.
- (8) **AUTOMOTIVE SERVICE STATION:** A building or other structure used for the retail sale, dispensing, or offering for retail sale of motor fuels, lubricants, and other supplies for motor vehicles, and the delivery of such items directly into motor vehicles.
- (9) **AUTOMOTIVE WRECKING:** The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.
- (10) **BASEMENT:** A story all or partly underground but having at least one-half of its height below the average level of the adjoining ground.
- (11) **BOARDING HOUSE (Rooming House, Lodging House):** A building or part thereof, other than a hotel, motel, or restaurant where lodging or lodging and meals are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.
- (12) **BUILDING:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.
- (13) **BUILDING, HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs
- (14) **BUILDING LINE:** See Setback Line.
- (15) **BUSINESS, GENERAL:** Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day-to-day needs of the community, also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances, and furniture; department stores; and discount stores.
- (16) **BUSINESS, OFFICE TYPE:** Office-type business generally accommodates such occupations and functions as administrative, executive, professional, accounting, writing, clerical, stenographic, and drafting. Institutional offices of a charitable, philanthropic, or religious or educational nature are also included in this classification.
- (17) **BUSINESS SERVICES:** Any profit making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.
- (18) **BUSINESS, WHOLESALE:** Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by the business service.
- (19) **CHANNEL:** A natural or artificial watercourse of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water.

- (20) CLINIC: A place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but who are not provided with board or room or kept overnight on the premises.
- (21) CLUB, PRIVATE: A building or portion thereof or premises owned or operated by a person or organization for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests.
- (22) COMMERCIAL RECREATION USE: A recreational use open to the public, established and operated for a profit, such as commercial golf courses, golf driving ranges, swimming pools, ice skating rinks, riding stables, bowling alleys, rifle ranges, and similar commercial uses.
- (23) CONDITIONAL USE: A use permitted within a district other than a principally-permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals, specifying the conditions under which it is authorized. Additional uses permitted in each district are presented in the Official Schedule of District Regulations.
- (24) CONDITIONAL USE PERMIT: A use permit issued by the Zoning Inspector upon approval by the Board of Zoning Appeals to allow a use other than a principally-permitted use to be established within a district.
- (25) CORNERLOT: See Lot Types.
- (26) CUL-DE-SAC: See Thoroughfare.
- (27) DAY-CARE CENTER: A home or facility for the care of babies and children, not including overnight care.
- (28) DENSITY: A unit of measurement; the number of dwelling units per acre of land, excluding public right-of-ways.
- (29) DRINKING ESTABLISHMENT: Any main or accessory use where intoxicating beverages of any type are sold for consumption either on or off premises. This category includes, but is not confined to, restaurants serving liquor, bars, carry-outs, and liquor stores.
- (30) DRIVE-IN USE: Any use providing off-street parking and catering primarily to vehicular trade such as drive-in restaurants, drive-in theaters, drive-in banks, and similar uses.
- (31) DWELLING: Any building or structure except a mobile home which is wholly or partially used or intended to be used for living or sleeping by one or more human occupants.
- (32) DWELLING UNIT: Space, within a building, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by only one family and its household employees.
- (33) DWELLING, SINGLE-FAMILY: A building consisting of a single dwelling unit only, separated from other dwelling units by open space.
- (34) DWELLING, TWO-FAMILY: A building consisting of two dwelling units which may either be attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

(35) **DWELLING, MULTI-FAMILY:** A building consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls. Multi-family housing may include public housing and industrialized housing units.

(36) **DWELLING, INDUSTRIALIZED UNIT:** An assembly of materials or products comprising all or part of a total structure which, when constructed, is self-sufficient or substantially self-sufficient and when installed, constitutes a dwelling unit, except for necessary preparations for its placement. The unit shall be certified as meeting the State Building Code as applicable to modular housing.

(37) **EASEMENT:** Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

(38) **ESSENTIAL SERVICES:** The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground gas, electrical, steam or water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains drains, sewers, pipes, traffic signals, hydrants, or other similar equipment and accessories in connection therewith which are 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.

(39) **FAMILY:** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over five persons.

(40) **FAMILY CARE HOME:** A residential facility which provides room and board, personal care, and supervision by house parents for eight (8) or fewer residents who may be mentally retarded, developmentally disabled, physically handicapped, or convalescing mentally ill, and have not been previously convicted of a felony involving violence; or aged (over 62 years of age) persons who are able to be integrated into a family-type setting and who do not require institutional care or treatment. This category is licensed by and/or has accountability to a governmental agency for the clientele served. This category does not include nursing homes, hospitals, or rest homes, as defined herein, or boarding houses, or foster children homes.

(41) **FLOOR AREA OF A RESIDENTIAL BUILDING:** The sum of the gross horizontal area of the several floors of a residential building, excluding basement floor areas not devoted to residential use, and excluding the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

(42) **FLOOR AREA (SALES FLOOR AREA) OF A NON-RESIDENTIAL BUILDING:** The floor area of the specified use, excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, and fitting rooms, and similar uses.

(43) **FOOD PROCESSING:** The preparation, storage, or processing of food products. Examples of these activities include bakeries, dairies, canneries, and other similar businesses.

(44) **GARAGES, PRIVATE:** A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers, and/or boats of the occupants of the premises and wherein:

(a) No more than one commercial vehicle per dwelling unit is parked or stored; and

- (b) The commercial vehicle permitted does not exceed two tons capacity.
- (45) HOME OCCUPATION: A gainful occupation conducted in a dwelling unit such as baking; dressmaking; millinery; weaving; home and furniture decorating; cosmetology; barbering; shoe, furniture, watch, radio, and television repairing; tool sharpening; or conducting an office for real estate, insurance, selling, or taking orders for merchandise or contracting work.
- (46) JUNK BUILDINGS, JUNK SHOPS, JUNK YARDS: Any land, property, structure, building, or combination of the same, on which junk is stored or processed.
- (47) KENNEL OR CATTERY: Any lot or premises on which four (4) or more domesticated animals more than four (4) months of age are housed, groomed, bred, boarded, trained, or sold.
- (48) LOADING SPACE, OFF-STREET: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street parking space is not to be included as off-street parking spaces in computation of required off-street parking spaces. All off-street loading spaces shall be located totally off of any street or alley right-of-way.
- (49) LOT: For the purpose of this ordinance, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and open spaces, as are herein required. Such lot shall have minimum frontage on an improved public street and may consist of:
 - (a) A single lot of record;
 - (b) A portion of a lot of record;
 - (c) A combination of complete lots of record, of complete lots of record and portion of lots of record, or portions of lots of record.
- (50) LOT COVERAGE: The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.
- (51) LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest to the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this ordinance.
- (52) LOT, MINIMUM AREA OF: The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street, including recorded or unrecorded easements for roadway purposes.
- (53) LOT MEASUREMENTS: A lot shall be measured as follows:
 - (a) Depth of a lot shall be considered to be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

- (b) Width of a lot shall be considered to be the distance between the straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line, provided, however, that the width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width.

(54) **LOT, NONCONFORMING:** A legally recorded lot which has less than the required minimum lot size, width, depth, or any combination thereof, as specified by the zoning district in which it is located.

(55) **LOT OF RECORD:** A lot which is part of a subdivision recorded in the Office of the Ross County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

(56) **LOT TYPES:** Terminology used in this ordinance with reference to corner lots, interior lots and through lots is as follows:

- (a) A **CORNER LOT** is defined as a lot located at the intersection of two or more streets if the interior angle of the intersection is less than 135 degrees.

- (b) An **INTERIOR LOT** is a lot other than a corner lot with only one frontage on a street.

- (c) A **THROUGH LOT** is a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

- (d) A **REVERSED FRONTAGE LOT** is a lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

(57) **MAINTENANCE AND STORAGE FACILITIES:** Land, buildings, and structures devoted primarily to the maintenance and storage of construction equipment and material.

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

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

(60) **MOBILE HOME:** A detached dwelling unit designed to be repeatedly transported on highways, and when arriving at the site for placement involving only minor and incidental unpacking, assembling, and connection operations; but which involves no substantial reconstruction which would render the unit unfit as a conveyance on the highway.

- (61) **MOBILE HOME PARK:** Any site, or tract of land under single ownership, upon which three or more mobile homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.
- (62) **MODULAR HOMES:** See Dwelling, Industrialized Unit.
- (63) **NONCONFORMING USE:** A building, structure, or use of land, or any combination thereof, existing at the time of enactment of this ordinance and which does not conform to the regulations of the district in which it is situated.
- (64) **NURSERY, PLANT MATERIALS:** Land, building, structure, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping.
- (65) **NURSING HOME:** A home or facility for the care and treatment of humans not requiring hospital care. Such a facility will provide room and board for their patients.
- (66) **OPEN SPACE:** An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts, any other recreational facilities that the Board of Zoning Appeals deems permissive. Streets, structures for habitation, and the like shall not be included.
- (67) **PARKING SPACE, OFF-STREET:** For the purpose of this ordinance, an off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.
- (68) **PERSONAL SERVICES:** Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors, and similar activities.
- (69) **PROFESSIONAL ACTIVITIES:** The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, engineers, and similar professions.
- (70) **PUBLIC SERVICE FACILITY:** The erection, construction, alteration, operation, or maintenance of buildings, power plants, or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and any other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water and sewage services.
- (71) **PUBLIC USES:** Public parks, schools, and administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.
- (72) **PUBLIC WAY:** An alley, avenue, boulevard, bridge, channel, ditch easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, tunnel, viaduct, walk, or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.
- (73) **QUASI-PUBLIC USE:** Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or nonprofit nature.

- (74) **RECREATION FACILITIES:** Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, golf driving ranges, and other such uses.
- (75) **RESEARCH ACTIVITIES:** Research, development, and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering. All research, testing, and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration, or odor shall be detected outside of said building.
- (76) **ROADSIDE STAND:** A temporary structure designed or used for the display or sale of agricultural and related products.
- (77) **RIGHT-OF-WAY:** A strip of land taken or dedicated for use as a public way. In addition to the roadway pavement, it normally incorporates the curb, lawn strips, sidewalks, lighting, and drainage facilities, and may include specific features (required by the topography or treatment) such as grade separation, landscaped areas, culverts, and bridges.
- (78) **SEAT:** For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs.
- (79) **SETBACK LINE, FRONT:** A line established by the plat regulations and/or zoning ordinance generally parallel with and measured from the front lot line, defining the limits of a yard in which no building or structure may be located, except as may be provided in this ordinance. (See Yards)
- (80) **SEWERS, CENTRAL OR GROUP:** An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development or community.
- (81) **SEWERS, ON-SITE:** A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of a effluent, subject to the approval of health and sanitation officials having jurisdiction.
- (82) **SIDEWALK:** That portion of the road right-of-way outside the roadway pavement, which is improved for the use of pedestrian traffic. See "Walkway."
- (83) **SIGN:** Any device designated to inform or attract the attention of persons.
- (a) **Sign, Accessory:** Any sign related to a business or profession conducted, or a commodity or service sold or offered upon the premises where such sign is located.

- (b) **Sign, Non-Accessory:** Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located.
- (c) **Sign, Advertising:** A sign which directs attention to a business, profession, commodity, or entertainment conducted, sold, or offered elsewhere than upon the same lot.
- (d) **Sign, Business:** A sign which directs attention to a business, profession, commodity, or entertainment conducted, sold, or offered upon the same lot.
- (e) **Sign, Illuminated:** Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.
- (f) **Sign, Lighting Device:** Any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.
- (g) **Sign, Projecting:** Any sign which projects from the exterior of a building.
- (h) **Sign, Wall:** Any sign which is mounted flat on the exterior wall of a building.
- (84) **STORY:** That part of a building between the surface of a floor and the ceiling immediately above.
- (85) **STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, wood decks, billboards, pools, tanks, fences in excess of six feet in height, satellite dishes, antennas, and similar items.
- (86) **SUPPLY YARDS:** A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.
- (87) **SWIMMING POOL:** A pool, pond, lake, or open tank containing at least 1.5 feet of water at any point and maintained by the owner or manager.
 - (a) **Private:** Exclusively used without paying an additional charge for admission by the residents and guests of a single household or a multi-family development; the members and guests of a club; or the patrons of a motel or hotel.
 - (b) **Community:** Operated with a charge for admission to the general public.
- (88) **THOROUGHFARE, STREET, OR ROAD:** The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:
 - (a) **Alley:** A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.
 - (b) **Arterial Street:** A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume traffic, usually on a continuous route.

- (c) Collector Street: A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
 - (d) Cul-de-Sac: A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
 - (e) Dead-end Street: A street temporarily having one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
 - (f) Local Street: A street primarily for providing access to residential, commercial, or other abutting property.
- (89) THROUGH LOT: See Lot Types.
- (90) USE: The specific purposes for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.
- (91) VARIANCE: A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of applicant a literal enforcement of the regulations would result in unnecessary and undue hardship. A variance may be authorized for use, height, area, and yard requirements, among others.
- (92) VETERINARY ANIMAL HOSPITAL OR CLINIC A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and/or recuperation.
- (93) WALKWAY: A dedicated public way, four (4) feet or more in width, for pedestrian use only, whether along the side of a road or not.
- (94) YARD: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure provided, accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
- (a) Yard, Front: A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.
 - (b) Yard, Rear: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.
 - (c) Yard, Side: A yard extending from the principal building to the side lot line on each sides of the principal building between the lines establishing the front and rear yards.
- (95) ZONING PERMIT: A document issued by the zoning inspector authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity to these regulations.

ARTICLE 3 - ZONING PERMIT

SECTION 3.01

ZONING PERMITS REQUIRED. No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building structure, or land be established or changed in use without a permit therefor, issued by the Zoning Inspector that does not conform with the provisions of this ordinance, unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal, conditional use, or variance, as provided by this ordinance.

SECTION 3.02

CONTENTS OF APPLICATION FOR ZONING PERMIT. The application for a zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one year or substantially completed within two and one-half (2-1/2) years. At a minimum, the application shall contain the following information:

- (1) Name, address, and telephone number of applicant and/or owner;
- (2) Address and legal description of the property;
- (3) Existing use;
- (4) Proposed use;
- (5) Zoning district;
- (6) Require submission with the application: plans in duplicate drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of any proposed building(s) or alteration;
- (7) Building heights;
- (8) Number of off-street parking spaces or loading spaces;
- (9) Number of dwelling units;
- (10) Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

SECTION 3.03

APPROVAL OF ZONING PERMIT. Within ten (10) calendar days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this ordinance. All zoning permits shall, however, be conditional upon the commencement of work within one year. One copy of the application and plans shall be returned to the applicant by the Zoning Inspector, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the application and plans, similarly marked, shall be retained by the Zoning Inspector. The Zoning Inspector shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the change in use or construction is in conformance with the provisions of this ordinance.

SECTION 3.04

EXPIRATION OF ZONING PERMIT. If the work described in any zoning permit has not begun within one year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Zoning Inspector; and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been substantially completed within two and one-half (2-1/2) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the cancelled permit, shall not proceed unless and until a new zoning permit has been obtained or extension granted.

SECTION 3.05

FAILURE TO OBTAIN A ZONING PERMIT. Failure to obtain a zoning permit shall be a violation of this ordinance and punishable under Section 12.07 of this ordinance.

SECTION 3.06

CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, AND PERMITS. Zoning permits issued on the basis of plans and applications approved by the Zoning Inspector, authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance and punishable, as provided in Section 12.07 of this ordinance

ARTICLE 4 - NONCONFORMITIES

SECTION 4.01

INTENT. Within the districts established by this ordinance or amendments that may later be adopted, there exists lots, structures, uses of land and structures, and characteristics of use which were lawful before this ordinance was passed or amended, but which would be prohibited regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these nonconformities to continue until they are removed but not to encourage their survival. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for addition of other structures or uses prohibited elsewhere in the same district.

SECTION 4.02

INCOMPATIBILITY OF NONCONFORMING USES. Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts in which such use is located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

SECTION 4.03

AVOIDANCE OF UNDUE HARDSHIP. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently.

SECTION 4.04

SINGLE NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements, other than those applying to area or width, or both, of the lot, shall conform to

the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

SECTION 4.05

NONCONFORMING LOTS OF RECORD IN COMBINATION. If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance; and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this ordinance.

SECTION 4.06

NONCONFORMING USES OF LAND. Where, at the time of adoption of this ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this ordinance, the uses may be continued *so long as they remain otherwise lawful provided:*

- (1) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
- (2) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this ordinance;
- (3) If any such nonconforming uses of land are voluntarily discontinued for a period of more than two (2) years, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located;
- (4) No additional structure, not conforming to the requirements of this ordinance, shall be erected in connection with such nonconforming use of land.

SECTION 4.07

NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
- (2) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, it shall not be reconstructed except in conformity with the provisions of this ordinance;
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 4.08

NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION. If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located;
- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;
- (3) If no structural alterations are made, any nonconforming use of a structure or structure and land may, as a conditional use, be changed to another nonconforming use, provided that the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of this ordinance;
- (4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district; and the nonconforming use may not thereafter be resumed;
- (5) When a nonconforming use of a structure; or structure and land in combination, is voluntarily discontinued or abandoned for more than two (2) years, except when government action impedes access to the land, the structure or structure and land in

- (6) combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;
- (6) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

SECTION 4.09

REPAIRS AND MAINTENANCE. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 4.10

USES UNDER CONDITIONAL USE PROVISIONS NOT NONCONFORMING USES.

Any use, which is granted as a conditional use in a district under the terms of this ordinance, shall not be deemed a nonconforming use in such district but shall, without further action, be considered a conforming use.

ARTICLE 5 - ADMINISTRATIVE BODIES AND THEIR RESPONSIBILITIES

SECTION 5.01

OFFICE OF ZONING INSPECTOR CREATED. A Zoning Inspector, recommended to the Village Council by the Planning Commission and appointed by the Village Council, shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the Village Council may direct.

SECTION 5.02

DUTIES OF ZONING INSPECTOR. For the purpose of this ordinance, the Zoning Inspector shall have the following duties:

- (1) Upon finding that any of the provisions of this ordinance are being violated, he shall notify, in writing, the person responsible for such violation(s), ordering the action necessary to correct such violation;
- (2) Order discontinuance of illegal uses of land, buildings, or structures;
- (3) Order removal of illegal buildings or structures or illegal additions or structural alterations;
- (4) Order discontinuance of any illegal work being done; or
- (5) Take any other action authorized by this ordinance to ensure compliance with or to prevent violation(s) of this ordinance. This may include the issuance of and action on zoning permits and such similar administrative duties as are permissible under the law.

SECTION 5.03

PROCEEDINGS OF PLANNING AND ZONING COMMISSION. The Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the votes of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be a public record and be filed in the Office of the Commission.

SECTION 5.04

DUTIES OF PLANNING AND ZONING COMMISSION. For the purpose of this ordinance, the Commission shall have the following duties:

- (1) Review all proposed amendments to this ordinance and make recommendations to the Village Council on such amendments.
- (2) May initiate proposed changes in this ordinance.

SECTION 5.05

BOARD OF ZONING APPEALS CREATED. A Board of Zoning Appeals is hereby created, which shall consist of the members of the Planning Commission of the Village of Kingston.

SECTION 5.06

PROCEEDINGS OF THE BOARD OF ZONING APPEALS. The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be filed in the Office of the Board.

SECTION 5.07

DUTIES OF THE BOARD OF ZONING APPEALS. In exercising its duties, the Board may, as long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Inspector from whom the appeal is taken. The concurring vote of a majority of the total membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in the application of this ordinance. For the purpose of this ordinance, the Board has the following specific responsibilities:

- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector;
- (2) To authorize such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done;
- (3) To grant conditional zoning permits, as specified in the Official Schedule of District Regulations and under the conditions specified in Article 9 and such additional safeguards as will uphold the intent of this ordinance.

SECTION 5.08

DUTIES OF ZONING INSPECTOR, BOARD OF ZONING APPEALS, LEGISLATIVE AUTHORITY, AND COURTS ON MATTERS OF APPEAL. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Board shall be to the courts, as provided by law. It is further the intent of this ordinance that the duties of the Village Council, in connection with this ordinance, shall not include hearing and deciding any questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this ordinance. Under this ordinance, the Village Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this ordinance, as provided by law, and of establishing a schedule of fees and charges, as stated in Section 5.09 of this ordinance.

SECTION 5.09

SCHEDULE OF FEES, CHARGES, AND EXPENSES The Village Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, appeals, and other matter pertaining to this ordinance. The schedule of fees shall be posted in the Office of the Zoning Inspector, and may be altered or amended by the Village Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE 6 - ADMINISTRATIVE PROCEDURES

AMENDMENTS

SECTION 6.01

PROCEDURE FOR AMENDMENT OR DISTRICT CHANGES. This ordinance may be amended utilizing the procedures specified in Sections 6.02-6.14, inclusive, of this ordinance.

SECTION 6.02

GENERAL. Whenever the public necessity, convenience, general welfare, and good zoning practices require, the Village Council may by ordinance after receipt of recommendation thereon from the Planning Commission, and subject to procedures provided by law, amend, supplement, change, or repeal the regulations, restrictions, and boundaries or classification of property.

SECTION 6.03

INITIATION OF ZONING AMENDMENTS. Amendments to this ordinance may be initiated in one of the following ways:

- (1) By adoption of a motion by the Planning Commission;
- (2) By adoption of a resolution by the Village Council;
- (3) By the filing of an application with the Zoning Inspector by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

SECTION 6.04

CONTENTS OF APPLICATION. The application for amendment shall contain at least the following information:

- (1) Name, address, and telephone number of applicant;
- (2) Proposed amendment to the text or legal description of land to be rezoned;
- (3) Present use;
- (4) Present zoning district;
- (5) Proposed use;

- (6) Proposed zoning district;
- (7) A vicinity map at a scale approved by the Zoning Inspector showing property lines, streets, existing and proposed zoning and such other items as the Zoning Inspector may require;
- (8) Two lists on pre-addressed mailing labels of all property owners' names and addresses within, contiguous to, and directly across the street or alley from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case;
- (9) A statement on how the proposed amendment relates to the existing zoning regulations and/or map;
- (10) A fee, as established by the Village Council.

SECTION 6.05

TRANSMITTAL TO THE PLANNING COMMISSION. After the adoption of a resolution by the Village Council or the filing of an application by at least one (1) owner or lessee of property, said resolution or application shall be transmitted to the Planning Commission.

SECTION 6.06

PUBLIC HEARING BY PLANNING COMMISSION. The Planning Commission shall schedule a public hearing after the adoption of a motion, transmittal of a resolution from the Village Council, or the filing of an application for zoning amendment. Said hearing shall be not more than sixty (60) days from the date of the receipt of such motion, transmittal of such resolution, or the filing of such application.

SECTION 6.07

NOTICE OF PUBLIC HEARING BY POSTING. Before holding the public hearing provided in Section 6.06, notice of such hearing shall be given by the Planning Commission by posting in those locations that Village ordinances and notices are posted, at least thirty (30) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the proposed amendment, and a statement that after the conclusion of such public hearing the matter will be referred to the Village Council with the Planning Commission's recommendation for further determination.

SECTION 6.08

NOTICE TO PROPERTY OWNERS BY PLANNING COMMISSION. If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Planning Commission, by first-class mail, at least twenty (20) days before the date of the hearing to all owners of property within, contiguous to, and directly across the street or alley from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list and/or the Treasurer's mailing list, as supplied by the applicant. The notice shall contain the same information as required of notices posted in the Village, as specified in Section 6.07.

SECTION 6.09

RECOMMENDATION BY PLANNING COMMISSION. Within thirty (30) days after the public hearing provided in Section 6.06, the Planning Commission shall recommend to the Village Council that the amendment be granted, as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be not granted. The Planning Commission shall transmit its recommendation and copies of the application and any other information from their public hearing to the Clerk of the Village Council.

SECTION 6.10

PUBLIC HEARING BY VILLAGE COUNCIL. Upon receipt of the recommendation from the Planning Commission, the Village Council shall schedule a public hearing. Said hearing shall be not more than sixty (60) days from the receipt of the recommendation from the Planning Commission at a regularly scheduled meeting of the Village Council.

SECTION 6.11

NOTICE OF PUBLIC HEARING BY POSTING. Notice of the public hearing required in Section 6.10 shall be given by the Village Council by posting in those locations that Village ordinances and notices are posted. Said notice shall be posted at least thirty (30) days before the date of the required hearing. The notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

SECTION 6.12

NOTICE TO PROPERTY OWNERS BY THE VILLAGE COUNCIL. If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first-class mail, at least twenty (20) days before the day of the public hearing to all owners of property

within, contiguous to, and directly across the street or alley from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list and/or the Treasurer's mailing list, as supplied by the applicant. The failure to deliver the notification, as provided in this section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices posted in the Village, as specified in Section 6.11.

SECTION 6.13

ACTION BY THE VILLAGE COUNCIL. Within sixty (60) days after the public hearing required by Section 6.10, the Village Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event the Village Council denies or modifies the recommendation of the Planning Commission, it must do so by not less than three fourths ($3/4$) of the full membership of the Village Council.

SECTION 6.14

EFFECTIVE DATE AND REFERENDUM. Such amendment adopted by the Village Council shall become effective thirty (30) days after the date of such adoption, unless within thirty (30) days after the passage of the ordinance there is presented to the Village Clerk a petition, signed by a number of qualified voters, residing the Village, equal to not less than ten (10) percent of the total vote cast in said Village at the last preceding general election at which a Governor was elected, requesting the Village Council to submit the zoning change ordinance to the electors of the Village for approval or rejection at the next general election.

No amendment for which such referendum vote has been requested shall be put into effect, unless a majority of the vote cast on the issue in said referendum is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take effect immediately.

APPEALS AND VARIANCES

SECTION 6.15

PROCEDURE AND REQUIREMENTS FOR APPEALS AND VARIANCES. Appeals and variances shall conform to the procedures and requirements of Sections 6.16-6.25, inclusive, of this ordinance.

SECTION 6.16

GENERAL. It is the purpose of Sections 6.17-6.21 to establish procedures and requirements for the hearing of appeals and variances. As is specified in Section 5.07, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

SECTION 6.17

APPEALS. Appeals to the Board of Zoning Appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer of the Village affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the initial decision by filing, with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals copies of all the papers constituting the record upon which the action appealed from was taken.

SECTION 6.18

STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown. Nothing herein shall prohibit the Board of Zoning Appeals from requesting an injunction from a court to stay any work in progress.

SECTION 6.19

VARIANCES. The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. No nonconforming use of neighboring lands, structures, or buildings in

the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

SECTION 6.20

APPLICATION AND STANDARDS FOR VARIANCES. A variance from the terms of this ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing:

- (1) Name, address, and telephone number of applicants;
- (2) Address and legal description of property;
- (3) Description of nature of variance requested;
- (4) Names and addresses of all property owners and tenants within, contiguous to, and directly across the street or alley from said property requesting an appeal or variance.
- (5) A narrative statement demonstrating that the requested variance conforms to the following standards:
 - (a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - (b) That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - (c) That special conditions and circumstances do not result from the actions of the applicant;
 - (d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;

SECTION 6.21

SUPPLEMENTARY CONDITIONS AND SAFEGUARDS. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted shall be deemed a violation of this ordinance and punishable under Section 12.07 of this ordinance. Under no circumstances shall the Board of

Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

SECTION 6.22

PUBLIC HEARING BY THE BOARD OF ZONING APPEALS. The Board of Zoning Appeals shall hold a public hearing within forty-five (45) days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

SECTION 6.23

NOTICE OF PUBLIC HEARING BY POSTING. Before holding the public hearing required in Section 6.22, notice of such hearing shall be posted in those locations that Village ordinances and notices are posted, at least seven (7) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.

SECTION 6.24

NOTICE TO PARTIES IN INTEREST. Before holding the public hearing required in Section 6.22, written notice of such hearing shall be mailed by the Board of Zoning Appeals, by first-class mail, at least seven (7) days before the day of the hearing to all parties in interest, including all property owners within, contiguous to, and directly across the street and alley from the affected property. The notice shall contain the same information as required of notices posted in the Village, as specified in Section 6.23.

SECTION 6.25

ACTION BY BOARD OF ZONING APPEALS. Within forty-five (45) days after the public hearing required in Section 6.22, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 6.21, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. If the request for appeal or variance is denied, the applicant may seek relief through the Court of Common Pleas.

SECTION 6.25.1

TERM OF VARIANCE No order of the Zoning Board of Appeals granting a variance shall be valid for a period longer than twelve (12) months from the date of such order unless the

building permit or zoning approval is obtained within such period, and the erection or alteration of a building is started or the use is commenced within such period.

CONDITIONAL USES

SECTION 6.26

PROCEDURE AND REQUIREMENTS FOR APPROVAL OF CONDITIONAL USES. Conditional uses shall conform to the procedures and requirements of Section 6.27-6.36, inclusive of this ordinance.

SECTION 6.27

GENERAL. It is recognized that an increasing number of new kinds of uses are appearing daily and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation, and public facilities that each specific use must be considered individually. These specific uses, as they are conditionally permitted under the provisions of Article 9, shall follow the procedures and requirements set forth in Section 6.28-6.36, inclusive.

SECTION 6.28

CONTENTS OF APPLICATION FOR CONDITIONAL USE PERMIT. An application for conditional use permit shall be filed with the Board of Zoning Appeals by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

- (1) Name, address, and telephone number of applicant;
- (2) Address and legal description of the property;
- (3) Description of existing use;
- (4) Present zoning district;
- (5) Description of proposed conditional use;
- (6) Names and addresses of all property owners and tenants within, contiguous to, and directly across the street or alley from said property requesting an appeal or variance.
- (7) A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Board may require to determine if the proposed conditional use meets the intent and requirements of this ordinance;

- (8) A narrative statement evaluating the economic effects on adjoining property; the effect of such elements as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Village as a whole;
- (9) Such other information as may be required in Section 6.30 and by the Board of Zoning Appeals.

SECTION 6.29

GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES. In addition to the specific requirements for conditionally permitted uses, the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- (1) Will be harmonious with and in accordance with the general objectives, or with any specified objective of the Village's zoning ordinance.
- (2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- (3) Will not be hazardous or disturbing to existing or future neighboring uses.
- (4) Will be served adequately by essential public facilities and service such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- (5) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (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 excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (7) Will have vehicular approaches to the property which shall be so designed as not to create any interference with traffic on surrounding public streets or roads; and
- (8) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

SECTION 6.30

SUPPLEMENTARY CONDITIONS AND SAFEGUARDS. In granting any conditional use, the Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this ordinance and punishable under Section 12.07 of this ordinance.

SECTION 6.31

PUBLIC HEARING BY THE BOARD OF ZONING APPEALS. The Board of Zoning Appeals shall hold a public hearing within forty-five (45) days from the receipt of the application specified in Section 6.28.

SECTION 6.32

NOTICE OF PUBLIC HEARING BY POSTING. Before holding a public hearing required in Section 6.31, notice of such hearing shall be posted in those locations that Village ordinances and notices are posted, at least seven (7) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed conditional use.

SECTION 6.33

NOTICE TO PARTIES IN INTEREST. Before holding the public hearing required in Section 6.31, written notice of such hearing shall be mailed by the Board of Zoning Appeals, by first-class mail, at least seven (7) days before the day of the hearing to all parties in interest, including all property owners within, contiguous to, and directly across the street or alley from the affected property. The notice shall contain the same information as required of notices posted in the Village, as specified in Section 6.32.

SECTION 6.34

ACTION BY BOARD OF ZONING APPEALS. Within forty-five (45) days after the public hearing required in Section 6.31, the Board shall either approve, approve with supplementary conditions as specified in Section 6.30, or disapprove the application as presented. If the application is approved or approved with modifications, the Board shall direct the Zoning Inspector to issue a conditional zoning permit listing the specific conditions specified by the Board for approval.

SECTION 6.35

EXPIRATION OF CONDITIONAL USE PERMIT. A conditional use permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use has not begun within six (6) months. After receiving a written request for an extension of time, the Zoning Inspector may grant an extension of time.

SUBSTANTIALLY SIMILAR USES

SECTION 6.36

PROCEDURE AND REQUIREMENTS TO DETERMINE THAT A USE SUBSTANTIALLY SIMILAR. Determination of substantially similar uses shall conform to the procedures and requirements of Section 6.37 - 6.41 inclusive of this ordinance.

SECTION 6.37

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

In formulating a determination that a proposed use is substantially similar use, the Board shall follow the procedures relating to appeals and variances as specified in this ordinance. Upon making a determination that a proposed use is substantially similar, the Board shall notify the Council of its decision and shall include in its written findings the reasoning upon which the decision is based. Unless the decision is rejected within thirty (30) days of its receipt by the Council, such substantially similar use determination by the Board shall become effective.

SECTION 6.38

REMEDY BY APPLICATION FOR AMENDMENT. If the Board determines that a proposed use is not substantially similar, such determination shall not be appealed to the Council, but remedy may be sought by the appellant through the submission of an application for a rezoning or amendment of the ordinance.

SECTION 6.39

STANDARDS FOR CONSIDERATION OF SUBSTANTIALLY SIMILAR USES.

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

- (1) The compatibility of the proposed use with the general use classification system as specified in this ordinance; and

- (2) The nature, predominant characteristics, and the intensity of the proposed use in relation to those uses specified by this ordinance as being permitted, or in the case of a conditional use, conditionally permitted, in that district; and
- (3) The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this ordinance.

SECTION 6.40

EFFECT OF DETERMINATION THAT A USE IS SUBSTANTIALLY SIMILAR. Should a use be determined to be substantially similar to a specific permitted or conditionally permitted use provided for in this ordinance, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has been found to be substantially similar.

SECTION 6.41

RECORD OF SUBSTANTIALLY SIMILAR USES. The Zoning Inspector shall maintain as a public record a listing of all uses which have been determined to be substantially similar. For each such use the record shall include the use as listed in the ordinance, the use listed in the ordinance, about which the determination of substantial similarity was made, and the dates of any actions thereupon by the Board of Zoning Appeals. This record shall also contain the same information for all uses which have been determined not to be substantially similar. The Zoning Inspector shall consult this record in the process of issuing future permits.

ARTICLE 7 - PROVISIONS FOR OFFICIAL ZONING MAP

SECTION 7.01

OFFICIAL ZONING MAP. The districts established in Article 8 of this ordinance are shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted and hereby incorporated herein as part of this ordinance.

SECTION 7.02

IDENTIFICATION OF THE OFFICIAL ZONING MAP. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Village Clerk, and bearing the seal of the Village.

SECTION 7.03

INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the boundaries of any of the zoning districts, as shown on the Official Zoning Map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries:
- (2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;
- (3) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom, as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map;
- (4) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line; and
- (5) Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed of to be the center of the stream or at the limit of jurisdiction of the Village, unless otherwise indicated.
- (6) Where boundaries have been changed by ordinance, the description in the ordinance shall be used to determine the boundary.

- (7) Where district boundaries are so indicated that they follow or approximately follow the limits of the village corporation, such boundaries shall be construed as following such limits.
- (8) Whenever any street, alley, or other public way is vacated by official Council action, the zoning district adjoining each side of such street, alley, or public way shall automatically be extended to the center of such vacation, and all areas within that vacation shall thenceforth be subject to all regulations appropriate to the respective extended districts.
- (9) All questions concerning the exact location of zoning district boundaries shall be resolved by the Board of Zoning Appeals.

SECTION 7.04

ZONING UPON ANNEXATION. The following shall apply to any areas annexed to the Village:

- (1) Any lots, tracts, or lands that are not subject to township zoning at the time of their annexation shall be automatically classified as Single-Family Residential District (R-1) until rezoned as per this ordinance;
- (2) Any lots, tracts, or lands which are subject to township or county zoning at the time of their annexation shall continue with the same county or township zoning district regulations but shall be administered by the Village;
- (3) With respect to any proposed or actual annexation the Planning Commission shall begin the process for permanent zoning classification of the area as soon as possible but no later than ten (10) days after the County Commissioners approve said annexation.

SECTION 7.05

ZONING MAP AMENDMENTS. Within fifteen (15) days of the effective date of any change involving the Zoning Map, the Zoning Inspector shall amend the Official Zoning Map to reflect any changes and shall note the effective date and the ordinance number authorizing such change.

ARTICLE 8 - ESTABLISHMENT AND PURPOSE OF DISTRICTS

SECTION 8.01

PURPOSE. The purpose of this article is to establish Zoning Districts in order to provide for orderly growth and development and to protect the property rights of all individuals by assuring the compatibility of uses and practices within the various districts.

SECTION 8.02

ESTABLISHMENT OF DISTRICTS. The following Zoning districts are hereby established for the Village of Kingston, Ohio.

SECTION 8.03

SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1). The purpose of the R-1 District is to encourage the establishment of low density single-family residential uses not to exceed four (4) dwelling units per gross acre. Centralized water and sewer facilities are required.

SECTION 8.031

ELDERLY RESIDENTIAL DISTRICT (R-2). The purpose of the R-2 District is to encourage an area for higher density elderly residential housing utilizing three (3) to eight (8) individual units per building along with associated uses normally considered an integral part of the elderly neighborhood. Centralized water and sewer facilities are required. (Village Ordinance No. 6-92)

SECTION 8.04

CENTRAL BUSINESS DISTRICT (CBD). The purpose of the Central Business District is to accommodate and encourage further expansion and renewal in the core business area of the Village. A variety of business, institutional, public, quasi-public, cultural, residential, and other related uses are encouraged in an effort to provide the mix of activities.

SECTION 8.05

COMMERCIAL DISTRICT (C-1). The purpose of the Commercial District is to encourage the establishment of areas for convenience business uses which tend to meet the daily needs of the residents of the Village. Such districts shall be strategically located with access to an arterial street.

SECTION 8.06

INDUSTRIAL DISTRICT (I-1). The purpose of the I-1 District is to encourage the development of manufacturing, processing, warehousing, and research and testing operations. These activities require extensive community facilities, and reasonable access to arterial highways; they may have extensive open storage and service areas, generate moderate traffic but shall be prohibited if they create nuisances beyond the limitations set forth in this ordinance.

ARTICLE 9 - DISTRICT REGULATIONS

SECTION 9.01

COMPLIANCE WITH REGULATIONS. The regulations for each district set forth by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- (1) No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located;
- (2) No building or other structure shall be erected or altered:
 - (a) to provide for greater height or bulk;
 - (b) to accommodate or house a greater number of families;
 - (c) to occupy a greater percentage of lot area; and
 - (d) to have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required, or in any other manner be contrary to the provisions of this ordinance;
- (3) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements set forth herein;

SECTION 9.02

SCHEDULE OF DISTRICT REGULATIONS ADOPTED. District regulations as set forth in the "Schedule of District Regulations" are hereby adopted and declared to be a part of this ordinance.

SECTION 9.03

IDENTIFICATION OF THE OFFICIAL SCHEDULE OF DISTRICT REGULATIONS. The "Schedule of District Regulations" shall be identified as Section 9.04 of this ordinance.

SECTION 9.04

SCHEDULE OF DISTRICT REGULATIONS

ZONING DISTRICT	PRINCIPAL PERMITTED USES	CONDITIONALLY PERMITTED USES	MINIMUM LOT SIZE WIDTH FT.	AREA S.F.	MAXIMUM % LOT COVERAGE	MAXIMUM HEIGHT STORIES	FRONT FEET	MINIMUM YARD DIMENSIONS ONE SIDE FEET	SUM OF SIDES FEET	REAR FEET	
R-1	One-Family Dwellings, Public Uses	Churches, Schools, libraries, nursing homes, rooming houses, tourist homes, clinics, two-family dwellings, home occupations, day-care centers, funeral parlors, private clubs.	65'	8,000	30%	2	25'	25'	6'	12'	30'
R-2	Same as R-1	Same as R-1 and multiple elderly living units of 3 to 8 units per building with associated accessory buildings and uses			30%	1	15'	35'	12'	24'	30'
CBD	Retail sales, personal & business services, except those requiring a Conditional Use Permit; Administrative, business, and professional offices; eating establishments; private clubs; apartments; public uses; Laundromats.	Drive-in uses, automotive uses, parking lots, supermarkets, drinking establishments, funeral parlors, commercial entertainment.	80'		60%	3	38'	0'	0'	0'	20'
C-1	Retail sales, personal & business services, except those requiring a Conditional Use Permit; offices; private clubs; public uses.	Drive-in uses, automotive uses, supermarkets, drinking establishments.	80'		40%	2	25'	25'	10'	25'	30'
I-1 (D-One)	Automotive uses, light manufacturing, research facilities, supply yards, offices, warehousing, material storage, grain elevators, public uses.	Junk Yards, contractor's yards, chemical manufacturing & storage.	200'	60,000	50%	3	38'	50'	25'	50'	50'