

ORDINANCE NO. 23-005

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF CANAL WINCHESTER PERTAINING TO PUBLICATION OF NOTICES IN NEWSPAPERS OF GENERAL CIRCULATION, AND DECLARE AN EMERGENCY

WHEREAS, several sections of the Codified Ordinances of the City of Canal Winchester currently require that notice of a particular action or publication of a particular item be made in a newspaper; and

WHEREAS, the loss of local newspapers has left fewer options, at greater expense to the City, for publication of public notices and other information; and

WHEREAS, it is believed that more individuals will have access to the notices or publications if they are provided by a posting on the official website of the City of Canal Winchester, or in other media reasonably calculated to reach a general audience, instead of purchasing legal advertisement space in a newspaper; and

WHEREAS, the City desires to amend all sections of the Codified Ordinances of the City of Canal Winchester that currently require notice of a particular action or publication of a particular item to be provided in a newspaper to instead require that the notice or publication be provided by a posting in a prominent location on the official website of the City of Canal Winchester;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, OHIO:


Section 1. That the Codified Ordinances of the City of Canal Winchester shall be amended as set forth in the attached Exhibit A.

Section 2. That this Ordinance is hereby declared to be an emergency measure, to be effective immediately upon passage, such emergency being necessary for the immediate preservation of the public peace, health, safety, or welfare, to wit: to provide for electronic notice to be posted in lieu of purchase of newspaper advertisement causing additional unnecessary expense to the City for upcoming public hearings and meetings.

DATE PASSED 2-6-23


PRESIDENT OF COUNCIL

ATTEST 
CLERK OF COUNCIL


MAYOR

DATE APPROVED 2-7-23

APPROVED AS TO FORM:


LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.


CLERK OF COUNCIL

EXHIBIT A

1111.04 REVIEW PROCEDURE OF A PROPOSED AMENDMENT.

(a) The Planning and Zoning Commission shall act on proposed amendments presented to it within a reasonable time. The owner or agent shall be advised as to the decision of the Planning and Zoning Commission by letter.

(b) The Planning and Zoning Commission shall hold a public hearing on the proposed amendment. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) At least one (1) notice of the Planning and Zoning Commission's public hearing shall be given at least ten (10) days prior to the scheduled public hearing date ~~in one (1) or more newspapers of general circulation in the municipality~~ on the website of the City of Canal Winchester. Such notice shall include 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 Council for further determination.

(d) Action by Planning and Zoning Commission. Within thirty-five (35) days of the public hearing, the Planning and Zoning Commission shall review the application and forward one of the following recommendations to Council: (1) Recommend the proposed amendment be approved as requested; (2) Recommend a modification of the proposed amendment; or (3) Recommend the proposed amendment not be approved.

(e) Upon Receipt of the Planning and Zoning Commission's recommendation, Council shall schedule a public hearing within sixty (60) days of said receipt. Nothing in this section shall prevent Council from continuing said public hearing.

(f) At least one (1) notice of Council's public hearing shall be given at least ten (10) days prior the scheduled public hearing date ~~in one (1) or more newspapers of general circulation in the municipality~~ on the website of the City of Canal Winchester. Such notice shall include the time and place of the public hearing, the nature of the proposed amendment, and a summary of the Planning and Zoning Commission's recommendation.

(g) Within forty-five (45) days after the public hearing, Council shall adopt or deny the recommendation, or adopt a modification thereof. To adopt the Planning and Zoning Commission's recommendation, a majority vote of the full membership of Council is required. To reverse or modify the Planning and Zoning Commission's recommendation, a vote of three-fourths (3/4) of the full membership of Council is required.

1141.11 APPEALS.

(a) Appeal of Planning and Zoning Administrator Decision. Whoever is aggrieved or affected by the decision of the Planning and Zoning Administrator involving an application for site plan approval shall have the right to file an appeal with the Planning and Zoning Commission. A written appeal shall be filed with the Planning and Zoning Administrator within ten (10) calendar days of the decision of the Planning and Zoning Administrator. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to the Planning and Zoning Commission the application and any relevant background information. The Planning and Zoning Commission shall have a maximum of seventy-five (75) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. To reverse or modify the Planning and Zoning Administrator's decision, a majority vote of the full membership of the Planning and Zoning Commission shall be required.

(b) Appeal of Planning and Zoning Commission Decision. Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission involving an application for site plan approval shall have the right to file an appeal with Council. A written appeal shall be filed with the Clerk within ten (10) calendar days of the decision of the Commission. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and

Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within twenty-one (21) days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required.

(c) Public Notification. At least one (1) notice shall be given at least ten (10) days prior to the public hearing ~~in one (1) or more newspapers of general circulation in the municipality on the website of the City of Canal Winchester~~. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(d) In approving a site plan on appeal, Planning and Zoning Commission or Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said site plan is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135, and shall result in revocation of the site plan approval and respective Certificate of Zoning Compliance.

1143.04 REVIEW PROCEDURE - PLANNING AND ZONING COMMISSION.

(a) Filing and Acceptance of Application. A written application for an Amendment and twelve (12) 11" by 17" size copies and two (2) full size copies of all plans and supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1143. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Amendment Application shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.

(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) days prior to a scheduled public hearing ~~in one (1) or more newspapers of general circulation in the municipality on the website of the City of Canal Winchester~~. Such notice shall include time and place of the public hearing, nature of the proposed amendment, and a statement that after the conclusion of such public hearing the matter will be referred to Council for further determination. (Ord. 53-07. Passed 9-4-07.)

(d) Notice to Property Owners. Written notice of the public hearing shall be mailed by the Municipality at least ten (10) days prior to the date of a scheduled public hearing to all property owners proposed to be rezoned or within two hundred and fifty (250) feet of any portion of such area proposed to be rezoned or redistricted as listed under Section 1143.02(c)(5). The notice shall correspond to subsection (c) hereof in content. Notices shall be sent by certified mail when an amendment proposes to rezone or redistrict ten (10) or less properties. Notice may be sent by

certified mail or regular first class mail when an amendment proposes to rezone or redistrict eleven (11) or more properties.

1143.05 REVIEW PROCEDURE - COUNCIL.

(a) Receipt of Planning and Zoning Commission's Recommendation. The property owner or applicant shall provide the Planning and Zoning Administrator with fifteen (15) 11" by 17" size copies and two (2) full size copies of all plans and supporting information of updated plans and supporting information that, when applicable, includes all revisions as requested by the Planning and Zoning Commission. Should any information not be included with this submittal, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Amendment Application shall be forwarded to Council until the application, including all plans and supporting information, has been revised as requested by the Planning and Zoning Commission.

(b) Public Hearing. Upon receipt of such recommendation, Council shall schedule a public hearing within sixty (60) days of said receipt. Nothing in this section shall prevent the Council from continuing a public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least thirty (30) days prior to a scheduled public hearing ~~in one (1) or more newspapers of general circulation in the municipality on the website of the City of Canal Winchester.~~ Such notice shall include time and place of the public hearing, nature of the proposed amendment, and a summary of the Planning and Zoning Commission's recommendation.
(Ord. 53-07. Passed 9-4-07.)

(d) Notice to Property Owners. Written notice of the public hearing shall be mailed by the Municipality at least ten (10) days prior to the date of a scheduled public hearing to all property owners proposed to be rezoned or within two hundred and fifty (250) feet of such area proposed to be rezoned or redistricted as listed under Section 1143.02(c)(5). The notice shall correspond to subsection (c) hereof in content. Notices shall be sent by certified mail when an amendment proposes to rezone or redistrict ten (10) or less properties. Notices may be sent by certified mail or regular first class mail when an amendment proposes to rezone or redistrict eleven (11) or more properties. (Ord. 55-11. Passed 10-17-11.)

(e) Action by Council. Within forty-five (45) days after public hearing, Council shall adopt or deny the recommendation of the Planning and Zoning Commission or adopt a modification thereof. To adopt the Planning and Zoning Commission's recommendation, a majority vote of the membership of Council is required. To reverse or modify the Planning and Zoning Commission's recommendation, a simple majority vote of the full membership of Council is required. An application for amending this Zoning Code that has been disapproved by Council shall be resubmitted to the Municipality no sooner than one (1) year of the date of such disapproval by Council.

1145.04 REVIEW PROCEDURE.

(a) Filing and Acceptance of Application. A written application for a Conditional Use and twelve (12) 11" by 17" size copies and two (2) full size copies of all plans and supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1145. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Conditional Use Application shall be reviewed by village officials until all required

information has been received by the Planning and Zoning Administrator. (Ord. 53-07. Passed 9-4-07.)

(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) days prior to a scheduled public hearing ~~in one (1) or more newspapers of general circulation in the municipality~~ on the website of the City of Canal Winchester. Such notice shall include time and place of the public hearing and nature of the proposed conditional use.

(d) Notice to Property Owners. Written notice of the hearing shall be mailed by the Municipality, certified mail, at least ten (10) days prior to the date of a scheduled public hearing to all property owners as listed under Section 1145.02 (c)(4). The notice shall correspond to subsection (c) hereof in content. (Ord. 41-01. Passed 8-20-01.)

(e) Procedure at Hearing. Within thirty-five (35) days of the public hearing, the Planning and Zoning Commission shall review the application and render one of the following decisions:

- (1) Approval of conditional use as requested.
- (2) Approval of conditional use with modifications.
- (3) Disapproval of conditional use.

The Commission shall apply the criteria in Section 1145.03 in reaching its determination. In approving a conditional use, the Commission may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made part of the terms under which the conditional use is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135 and shall result in revocation of the conditional use approval and respective Certificate of Zoning Compliance.

The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

1145.04 REVIEW PROCEDURE.

(a) Filing and Acceptance of Application. A written application for a Conditional Use and twelve (12) 11" by 17" size copies and two (2) full size copies of all plans and supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1145. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Conditional Use Application shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator. (Ord. 53-07. Passed 9-4-07.)

(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) days prior to a scheduled public hearing ~~in one (1) or more newspapers of general circulation in the municipality~~ on the website of the City of Canal Winchester. Such notice shall include time and place of the public hearing and nature of the proposed conditional use.

(d) Notice to Property Owners. Written notice of the hearing shall be mailed by the Municipality, certified mail, at least ten (10) days prior to the date of a scheduled public hearing to all property owners as listed under Section 1145.02 (c)(4). The notice shall correspond to subsection (c) hereof in content. (Ord. 41-01. Passed 8-20-01.)

(e) Procedure at Hearing. Within thirty-five (35) days of the public hearing, the Planning and Zoning Commission shall review the application and render one of the following decisions:

- (1) Approval of conditional use as requested.
- (2) Approval of conditional use with modifications.
- (3) Disapproval of conditional use.

The Commission shall apply the criteria in Section 1145.03 in reaching its determination. In approving a conditional use, the Commission may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made part of the terms under which the conditional use is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135 and shall result in revocation of the conditional use approval and respective Certificate of Zoning Compliance.

The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

1145.06 APPEALS.

(a) Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission involving an application for a Conditional Use shall have the right to file an appeal with Council. A written appeal shall be filed with the Clerk within ten (10) calendar days of the decision of the Commission. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within thirty (30) days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. In reaching a determination of a requested Conditional Use on appeal, Council shall consider Section 1145.03. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required. (Ord. 22-11. Passed 4-4-11.)

(b) Public Notification. At least one (1) notice shall be given at least ten (10) days prior to the public hearing ~~in one (1) or more newspapers of general circulation in the municipality on the website of the City of Canal Winchester~~. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(c) In approving a Conditional Use on appeal, Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said Conditional Use is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135, and shall result in revocation of the Conditional Use approval and respective Certificate of Zoning Compliance.

1147.04 REVIEW PROCEDURE.

(a) Filing of Application. A written application for a Variance and twelve (12) 11" by 17" size copies and two (2) full size copies of all supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1147. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Variance Application shall be reviewed by Village officials until all required information has been received by the Planning and Zoning Administrator.

(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) days prior to a scheduled public hearing ~~in one (1) or more newspapers of general circulation in the municipality~~ on the website of the City of Canal Winchester. Such notice shall include the time and place of the public hearing and the nature of the proposed variance(s).

(d) Notice to Property Owners. Written notice of the hearing shall be mailed by the Municipality, certified mail, at least ten (10) days prior to the date of a scheduled public hearing to all property owners as listed under Section 1147.02(c) (5). The notice shall correspond to subsection (c) hereof in content.

(e) Recommendation from the Landmarks Commission. Variances to Section 1175.01 (Old Town Overlay District) shall require a recommendation from the Landmarks Commission prior to the public hearing held by the Planning and Zoning Commission. The Landmarks Commission shall consider variance applications per the criteria of approval found in Section 1147.03.

(f) Procedure at Hearing. Within thirty-five (35) days of the public hearing, the Planning and Zoning Commission shall review the application and render one of the following decisions:

- (1) Approval of variance(s) as requested.
- (2) Approval of variance(s) with modifications.
- (3) Disapproval of variance(s).

The Commission shall apply criteria in Section 1147.03 in reaching its determination. In approving a variance(s), the Commission may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed herein.

The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

1147.07 APPEALS.

(a) Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission involving an application for a Variance shall have the right to file an appeal with Council. A written appeal shall be filed with the Clerk within ten (10) calendar days of the decision of the Commission. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within thirty (30) days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. In reaching a determination on a requested Variance on appeal, Council shall consider Section 1147.03. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required. (Ord. 22-11. Passed 4-4-11.)

(b) Public Notification. At least one (1) notice shall be given at least ten (10) days prior to the public hearing ~~in one (1) or more newspapers of general circulation in the municipality~~ on the website of the City of Canal Winchester. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(c) In approving a Variance on appeal, Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said Variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135 and shall result in revocation of the Variance approval and respective Certificate of Zoning Compliance.

1175.01 OLD TOWN OVERLAY DISTRICT.

(a) Purpose and Intent. The Old Town Overlay District is hereby established to preserve the development character and pattern that has occurred over time within both the Historic District and Preservation District. It is the intent of the Old Town Overlay District to maintain, develop, and enhance the distinctive character of Canal Winchester.

(b) Applicability. All properties within Old Town Overlay District will be subject to the following requirements and standards. In cases where the requirements and standards of the Old Town Overlay District conflict with similar requirements and standards of this Zoning Code, the requirements and standards of the Old Town Overlay District shall supersede those of this Zoning Code.

(c) Boundaries. The boundaries of the Old Town Overlay District are shown on the map found in the Canal Winchester Old Town Guidelines. Copies of the Canal Winchester Old Town Guidelines are on file with the Planning and Zoning Department.

(d) Administration of Overlay Regulations. The Historic District and Preservation District in the Old Town Overlay District shall fall under the jurisdiction of the Landmarks Commission. The Landmarks Commission shall administer the regulations contained in Section 1175.01 of this Zoning Code.

(e) Certificate of Appropriateness Required.

(1) No construction, reconstruction, exterior alteration, or demolition shall be made to any property within the Historic District or Preservation District until a Certificate of Appropriateness has been applied for, and issued by, the Landmarks Commission. No Certificate of Zoning Compliance and/or other appropriate permits shall be issued by the Planning and Zoning Administrator for any construction, reconstruction, exterior alteration, or demolition of any structure in the Historic District or Preservation District unless a Certificate of Appropriateness has been issued.

(2) Council shall seek the guidance of the Landmarks Commission for construction, reconstruction, alteration or demolition of any public building, public work, public lands or public utility owned by Canal Winchester when there is a question of landmarks status or historical significance. The Landmarks Commission must provide this guidance in the form of a Certificate of Appropriateness or some other method within sixty (60) days of Council's request.

(3) No Certificate of Appropriateness shall be required for construction, reconstruction, alteration or demolition of any public building, public work, public lands or public utility owned by Canal Winchester when there is not a question of landmarks status or historical significance.

(4) A Certificate of Appropriateness for the change of paint color shall be required for properties within the Historic District and shall not be required for properties in the Preservation District.

(f) Certificate of Appropriateness Procedure for Design Review.

(1) An informal meeting between the Planning and Zoning Administrator and the property owner or applicant is encouraged prior to the submittal of an application for a Certificate of Appropriateness.

(2) Applications for a Certificate of Appropriateness shall be filed with the Planning and Zoning Administrator at least fifteen (15) days prior to the meeting of the Landmarks Commission.

(3) Application Contents. An application for a Certificate of Appropriateness shall contain the following, as applicable:

- A. The name, address, and phone number of the applicant.
- B. The location of the property in question.
- C. If employed, the name and contact information of the architect and/or contractor.

D. A complete description of the proposed alteration, construction, or other external change.

E. A plot plan illustrating the proposed structural or exterior changes including changes in setbacks, facilities, landscaping, screening, fences, walkways, signs, and other relevant structures and fixtures and their relationship to the surrounding structures.

F. A plan indicating changes in site elevations.

G. Description or sample of materials to be used in the proposed project.

H. The names and addresses of adjoining property owners.

I. The applicant may submit sketches, photographs and other illustrative material relevant to the proposed project. In addition, the Planning and Zoning Administrator and/or Landmarks Commission may request such additional information as is deemed necessary to review the application in keeping with the intent of this Ordinance.

(4) The Landmarks Commission shall determine whether the proposed construction, reconstruction, exterior alteration, or demolition will be appropriate to the preservation of the environmental, architectural or historic character of the structure and property in Historic District or Preservation District, pursuant to Section 1175.01(g). The applicant or his representative or agent shall be present at the meeting at which action on the request is to occur.

(5) In determining the appropriateness of a specific alteration or environmental change, the Landmarks Commission may conduct a public hearing on the project and/or solicit input from consultants to the Municipality. If insufficient information is provided to enable the Landmarks Commission to evaluate the application, the Landmarks Commission may table discussion on the application until further information is provided by the applicant. If an application is tabled, the Planning and Zoning Administrator shall notify the applicant of such action, along with a list of the information needed to take action.

(6) After action on the application by the Landmarks Commission, the applicant shall be informed in writing of the decision by the Landmarks Commission.

(7) If no action is taken within sixty (60) days from the date of application, the Certificate of Appropriateness shall be issued as a matter of law. This provision shall not apply if the application is tabled due to lack of information provided by the applicant, or due to the applicant requesting that the application remain tabled.

(8) It shall be the duty of the Planning and Zoning Administrator to monitor the completion of the approved alteration or environmental change, and to notify the Chairperson of the Landmarks Commission if such action is not carried out consistent with the approved application.

(9) A Certificate of Appropriateness shall be conditional upon the commencement of work within one (1) year of issuance. If the work has not been more than fifty (50) percent completed within one and one-half (1 1/2) years of issuance, the certificate shall expire and be revoked by the Planning and Zoning Administrator. Written notice shall be provided to the property owners together with notice that further work as described in the canceled certificate shall not proceed unless a new certificate is issued or an extension granted.

(10) If a Certificate of Appropriateness expires and/or is revoked, and a new certificate or extension is not granted, it is the property owner's responsibility to return the property to its original state prior to issuance of the Certificate of Appropriateness within thirty (30) days.

(11) Once a Certificate of Appropriateness expires or is revoked, only one (1) additional Certificate of Appropriateness shall be approved for the project. After the second Certificate of Appropriateness has expired, the property shall be subject to the requirements of Section 1175.01(10). When the requirements of Section 1175.01(10) have been fulfilled to the satisfaction of the Planning and Zoning Administrator, a new Certificate of Appropriateness application may be submitted for review.

(g) Design Criteria. The following design criteria shall apply to properties within the Historic District and Preservation District, unless otherwise specified:

(1) Architectural Styles. Architecture of submitted new construction shall be in an architectural style which is prominent and appropriate in the Old Town Overlay District. Examples of historic architectural styles in Canal Winchester can be found in the Old Town Guidelines.

(2) Rehabilitation. The rehabilitation of existing structures shall preserve the character, historical significance, and architectural style of the structure. Rehabilitation of a structure shall be appropriate for the time period and style of the structure and a false sense of history shall not be created.

(3) Height. The height of new structures shall be compatible with the height of the existing adjacent buildings, unless the Landmarks Commission finds that it is not in the best interest of the community that a common height be maintained. The height of any building in the Old Town Overlay District shall not exceed the maximum height permitted in the underlying zoning district.

(4) Building Massing. For new construction, the building width, height, surrounding setbacks and style shall be considered in relationship to adjacent structures. This relationship between buildings should allow for consistency of style, size and density in each given neighborhood area.

(5) Materials. Properties in the Historic District shall use traditional building materials such as wood, brick, or stone for rehabilitation or new construction projects. Properties in the Preservation District shall also use traditional building materials such as wood, brick, or stone for new construction projects. Rehabilitation projects in the Preservation District are encouraged to use traditional building materials, but may use man-made materials at the discretion of the Landmarks Commission if the proposed project keeps in character with the existing building, area structures, the Old Town Guidelines, and all other stated design criteria.

(6) Enhancement of Pedestrian Environment. Where possible, elements which can contribute to the quality of the pedestrian environment and other public amenities should be promoted. Included among these may be benches, water fountains, seating areas, arcades, awnings or canopies.

(Ord. 18-12. Passed 5-7-12.)

(7) Signage. Signage in the Old Town Overlay District shall be subject to the following standards:

A. Signage shall be properly scaled and consistent with the architectural character of the subject building.

B. Signs shall be composed of metal, wood or a wood composite material. Window signs utilizing decals shall be exempt from this material requirement.

C. Internally illuminated signs are prohibited in the Historic District and Preservation District. External lighting is appropriate, but the light source should be placed in an inconspicuous location where it will not obscure other features of the building.

D. No more than one (1) wall, projecting, or awning sign shall be permitted for each business or use. A secondary wall, projecting, or awning sign shall only be permitted when either:

i. A building has a rear or side parking area and rear or side entrance. Such secondary sign shall be located at secondary building entrance facing the parking area.

ii. A building is located on corner property that faces two (2) public streets, not including alleys. In such an instance, one (1) sign shall be oriented toward each public street.

E. Window signs shall be permitted per guidelines in Section 1189.07(b).

F. Freestanding signs shall be permitted per the following requirements:

i. The setback of a freestanding sign shall be no less than five (5) feet from any property line or public right-of-way.

ii. Freestanding signs shall have a display area of no more than ten (10) square feet per side, a display area of no more than twenty (20) square feet in total display area and a height of no more than six (6) feet.

iii. Multi-tenant freestanding signs shall have a display area of no more than fifteen (15) square feet per side, a display area of no more than thirty (30) square feet in total display area and height of no more than six (6) feet. A single tenant shall not take up more than fifty (50) percent of a multi-tenant sign.

iv. Freestanding signs located in the Old Town Overlay District shall be exempt from Section 1189.08(a)(6) of this Zoning Code which requires the base of such sign to be solid without any gaps and completely flush against the adjacent grade. (Ord. 17-015. Passed 5-1-17.)

(8) Old Town Guidelines. The Old Town Guidelines shall serve as a guide for the review of a Certificate of Appropriateness application. The Old Town Guidelines shall facilitate the Landmarks Commission in their review process in concert with the aforementioned design criteria. It shall be the responsibility of the Landmarks Commission to maintain the Old Town Guidelines.

(h) Appeal.

(1) Whoever is aggrieved or affected by the decision of the Landmarks Commission involving an application for a Certificate of Appropriateness shall have the right to file an appeal with Council. A written appeal shall be filed with the Clerk within ten (10) calendar days of the decision of the Landmarks Commission. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled with thirty (30) days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. To reverse or modify the Landmarks Commission's decision, a simple majority vote of the full membership of Council shall be required.

(2) Public Notification. At least one (1) notice shall be given at least ten (10) days prior to the public hearing ~~in one (1) or more newspapers of general circulation in the municipality on the website of the City of Canal Winchester.~~ Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the Municipality, certified mail, at least ten (10) days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(3) In approving a Certificate of Appropriateness on appeal, Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said Certificate of Appropriateness is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135 and shall result in revocation of the Certificate of Appropriateness approval.

1177.05 APPEALS AND VARIANCES.

(a) Appeals Board. The Planning and Zoning Commission shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of this chapter.

(b) Powers and Duties.

(1) The Planning and Zoning Commission shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.

(2) Authorize variances in accordance with Section 1177.05 (d) of this chapter.

(c) Appeals.

(1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within ten (10) days of the date of such notice and order, or other official action, a statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed and dated by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Planning and Zoning Commission.

(2) Upon receipt of the notice of appeal, the Planning and Zoning Commission shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

(d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Planning and Zoning Commission shall have the power to authorize, in specific cases, such

variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) Application for a Variance.

A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Planning and Zoning Commission.

B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

C. A fee as stipulated by ordinance shall be paid by the applicant payable to the General Fund.

(2) Notice for Public Hearing. The Planning and Zoning Commission shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in ~~one (1) or more newspapers of general circulation in the community~~ on the website of the City of Canal Winchester at least ten (10) days before the date of the hearing.

(3) Public Hearing. At such hearing the applicant shall present such statements and evidence as the Planning and Zoning Commission requires. In considering such variance applications, the Planning and Zoning Commission shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services provided by the proposed facility to the community.
- E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) Variances shall only be issued upon:

- A. A showing of good and sufficient cause,
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant,
- C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws,
- D. A determination that the structure or other development is protected by methods to minimize flood damages, and

E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Planning and Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

(5) Other Conditions for Variances.

A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1177.05 (d)(3), A – K have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 88-05. Passed 11-21-05.)

(e) Procedure at Hearings.

(1) All testimony shall be given under oath.

(2) A complete record of the proceedings shall be kept, except confidential deliberations of the Planning and Zoning Commission, but including all documents presented and a verbatim record of the testimony of all witnesses.

(3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.

(4) The Floodplain Administrator may present evidence or testimony in opposition to the appeal or variance.

(5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.

(6) Evidence that is not admitted may be proffered and shall become part of the record for appeal.

(7) The Planning and Zoning Commission shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.

(8) The decision of the Planning and Zoning Commission may be announced at the conclusion of the hearing or the decision may be issued in writing within a reasonable time after the hearing. The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

(Ord. 22-11. Passed 4-4-11.)

(f) Appeal to the Court. Those aggrieved by the decision of the Planning and Zoning Commission may appeal such decision to the Franklin County or Fairfield County, as applicable, Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.