

PASSED:
BY:

ORDINANCE NO. 2018-13

ORDINANCE TO AMEND ZONING CODE AND REGULATION OF
ACCESSORY STRUCTURES

WHEREAS, Amberley Village is a suburban oasis characterized by open views, spacious natural vistas, greenery, and a picturesque setting; residential structures are typically exemplified by quality construction that provides permanent and long lasting buildings that also have a desirable appearance and aesthetic that are compatible with surrounding properties;

WHEREAS, it is important to preserve property values and the quality of the residential environment;

WHEREAS, in order to promote the health, safety, and welfare of residents and the community as a whole, the Zoning Code strives to protect and enhance the attractive appearance of all residential structures in the Village;

WHEREAS, on October 8, 2018, Village Council enacted a moratorium on certain accessory structures pending an investigation and study of the existing Zoning Code in order to regular such structures in a manner that allows the reasonable use of one's property while limiting adverse impacts from that use on neighboring properties;

WHEREAS, Council finds and determines that changes to the Zoning Code are necessary to protect and promote the public health, safety, and welfare;

WHEREAS, Village staff worked extensively to draft new regulations, in response to input from the Planning Commission, the Law Committee, and Village Council, and comments received at duly noticed public hearings before the Planning Commission and Village Council, respectively;

WHEREAS, the Planning Commission and Law Committee recommend the adoption of changes to the Zoning Code as set forth herein;

WHEREAS, Council finds and determines that the proposed changes serve the public interest and protect the public health safety and welfare, and constitute measured and reasonable restrictions on the use of one's property in order to balance and protect the rights of neighboring property owners and the community as a whole;

NOW, THEREFORE, BE IT ORDAINED BY THE Council of Amberley Village, State of Ohio, () members elected thereto concurring:

SECTION 1: Section 154.12 of the Municipal Code of Ordinances is amended to

read as follows:

§ 154.12 ACCESSORY STRUCTURES.

(A) An accessory structure is permitted in a residential district if it meets the following restrictions:

- (1) No accessory structure shall be erected in a front yard.
- (2) No accessory structure shall be erected in any side yard within a distance from the rear side lot line less than the least width of the side yard required for the principal building.
- (3) Accessory structures may be built in a rear yard not nearer to a rear or side lot than the side yard requirement for such the principal structure.
- (4) Except as otherwise provided in the Zoning Code, individual enclosed accessory structures that are not open to the sky, either wholly or partially, such as sheds, garages, garden buildings, and pool houses, shall not cover a total of more than 200 square feet of floor area. Floor area means the area of the ground floor of the structure that creates a footprint of the structure on the property. A detached garage shall not cover more than 800 square feet, or more than 50% of the floor area of the principal structure, whichever is less. A detached garage is an enclosed accessory structure used for storage, including but not limited to the parking or storage of vehicles, that is not connected to the principal structure by means of an above ground structure, material, or equipment. No combination of accessory structures, whether enclosed or open to the sky, shall have an aggregate floor area greater than 50% of the principal structure, or greater than 50% of the required rear yard, whichever is less.
- (5) On a corner lot, no accessory building shall project beyond the front yard line on either street.
- (6) No accessory building shall be constructed on a lot until construction of 50% or more of the principal building has been completed.
- (7) The principal access of an accessory structure, such as primary access doors to a shed or garage, may not face a street.
- (8) No accessory structure shall be located in a public right of way or utility easement.
- (9) Accessory structures cannot be used as a dwelling, and may not be used as part of a home business or home occupation. Accessory structures may only be used in a manner consistent with, and incidental and subordinate to, the principal use on the property.
- (10) Accessory structures with roofs or walls that are not rigid or durable, such as tents, canopies, and structures covered or clad in collapsible or other similar material such

as fabric, nylon, plastic, or tarps, including but not limited to temporary utility or storage structures, portable carports, and shelters, may not be maintained for more than seven consecutive days or more than a total of 30 days in a calendar year.

(11) Accessory structures shall meet all other requirements set forth in the Village Code of Ordinances.

SECTION 2: Section 154.121 of the Municipal Code of Ordinances, which is to be added to and amends the Municipal Code of Ordinances, reads as follows:

§ 154.121 CONDITIONAL ACCESSORY STRUCTURES.

(A) *Purpose.* The Village recognizes that some structures could be constructed in excess of the restrictions set forth in Section 154.12 while still promoting the Village's goals of maintaining an attractive appearance, property values, and residential character, and that many properties are unique such that no rule will apply equally to all properties. It is the Village's intent to allow for some structures which may exceed said restrictions as long as the Board of Zoning Appeals determines that the structures are of an appropriate size, height, construction, dimensions, and appearance so as not to detract from the stated goals.

(B) Notwithstanding the restrictions set forth in Section 154.12, accessory structures may be constructed or maintained in excess of said restrictions if the applicant demonstrates that all of the following conditions are satisfied as determined by the Board of Zoning Appeals:

(1) The construction and use of the structure will not be detrimental to the peaceful use and occupancy of nearby properties.

(2) The construction and use of the structure will not have a detrimental effect upon the property values in the neighborhood.

(3) The design and appearance of the structure will not have an adverse impact on the residential quality of the neighborhood.

(a) The appearance and construction of accessory structures shall compliment and be consistent with the appearance and architectural style of the principal structure on the same lot, as well as generally with accessory structures on adjoining and nearby properties. Accessory structures must appear, and be used in a manner that is, subordinate to the primary structure.

(b) The design, appearance, and construction of accessory structures should be consistent with and complement the principal structure and the residential character of the neighborhood, including the use of similar building materials, colors, and type of construction. Siding and exterior walls and roofs must approximate the size, color, appearance, and materials as exists on the principal structure and shall be residential in

character. Vertical siding should not be utilized unless it comprises less than 30 percent of the surface area of the entire structure, unless a greater percentage of vertical siding is also used on the principal structure on the same lot in which case the percentage shall be substantially similar. If the principal structure has brick siding, an accessory structure must either: (1) use similar brick or masonry materials on the front of the structure, and brick or masonry trim or accent elements matching similar components on the principal structure; or (2) use siding materials resembling at least one other non-brick accessory structure on an adjacent property. The color and texture of exterior wall materials of an accessory structure must be similar to, although not exactly the same as, the principal residence.

(c) All siding and exterior walls must be residential in character. If vinyl, metal, or similar materials are used, it must simulate wood in appearance, such as using bevel or lap siding.

(d) Roof lines and roofing materials on the accessory structure must be substantially similar to that on the principal structure. Flat roofs are not permitted on an accessory structure unless at least half of the principal structure has a flat roof.

(e) Windows must be placed on at least two walls of an accessory structure. The size and dimensions of windows on an accessory structure must be proportionate with the principal structure.

(f) Avoid large expanses or areas of a single material, color, or texture. Use windows and other architectural features to break up a monotonous plane.

(g) Structures must be made of durable and rigid materials that have an attractive appearance suitable for the residential area in which the structure is located. Varied architectural styles are encouraged provided that neighborhood compatibility and architectural integrity are maintained. Structures must be made of such materials, textures, and details that contribute to the visual interest of the structure and to avoid monotony. It is not the intent of the Village to require or prohibit a specific building material, except as otherwise stated herein, as long as materials are utilized to enhance, and not detract from, aesthetics and property values.

(h) Accessory structures should appear consistent with similar buildings in the immediate area, and shall reflect a consistent suburban aesthetic. Accessory structures that are rural, agricultural, commercial, or industrial in character, or appearance, or use are not allowed unless they are expressly permitted in the Village Code of Ordinances.

(4) Carports may only be used for the parking of vehicles and not for storage of other personal property. Storage of personal property, other than vehicles, must be in an enclosed structure.

(5) An accessory structure may be approved as a conditional use to contain a dwelling unit or other space fit for human habitation, or home business or home occupation, if it

meets all other requirements set forth in the Village Code of Ordinances.

(C) Applications for conditional approval of an accessory structure under this section shall comply with the following:

(1) Applications must be submitted to the Village Manager on a form provided by the Village. If the Village Manager determines the application is complete, a hearing shall be scheduled at the next available meeting of the Board of Zoning Appeals at least 21 days after the determination to allow for proper notification to interested parties. Upon scheduling a hearing, the Village Manager shall cause notice of the hearing to be provided to interested parties in the same manner as for applications for variances before the Board of Zoning Appeals.

(2) The application shall include the following information at a minimum:

(a) Plot Plan drawn to scale showing:

(i) Property lines and dimensions.

(ii) All existing and proposed structures and their dimensions.

(iii) Distances from nearby property lines and the principal structure relative to all accessory structures, existing or proposed.

(b) Construction Details:

(i) Building height.

(ii) Whether a foundation, slab, or other such support will be utilized.

(iii) The method for anchoring or securing the structure to the ground.

(iv) Elevation views and grade lines.

(v) Materials to be used in construction, including but not limited to the color and appearance of the completed structure, and materials to be used for exterior walls, siding, and roofing, if any.

(3) No construction or site preparation is permitted until final approval by the Board of Zoning Appeals.

(4) All work must be performed in accordance with the application, plans, and other information submitted to the Village unless otherwise modified by the Board of Zoning Appeals.

(D) Structures approved under this section constitute a conditional use on the property upon which the structure is situated. Upon approval by the Board of Zoning Appeals, the Village Manager will issue the property owner upon which the structure is located a written conditional use permit which incorporates said approval. Noncompliance with the permit is cause for revocation of the permit as determined by the Village Manager. The permit runs with the land unless revoked or terminated as provided for herein.

(E) Upon consideration of an application for a conditional use, the Board of Zoning Appeals may approve the application, deny the application, or approve the applications with conditions.

SECTION 3: Section 154.25 of the Municipal Code of Ordinances is amended to read as follows:

§ 154.25 USE REGULATIONS.

(A) Principal permitted uses. A building or lot or other land area in this district shall be used only for the following principal permitted uses:

- (1) Single-family dwellings.
- (2) Public water tower or reservoir;
- (3) Farms, provided that no farm animals shall be kept on any property that is smaller than ten acres.

(B) *Accessory uses.*

(1) *Home occupation.* A professional or business activity conducted in a dwelling unit, provided:

- (a) No person other than members of the family residing on the premises, and one additional individual at any one time who need not be a member of the family, shall be engaged in such occupation;
- (b) The use of the dwelling unit for the home occupation shall be clearly subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, nonilluminated, and if unattached, positioned on the premises with the bottom at a height not exceeding 12 inches.
- (d) No home occupation shall be conducted in any accessory building. Except for automobiles used in connection with the home occupation, no tools, equipment, implements, machinery, supplies, inventory or product of a home occupation shall be stored on the premises unless stored in the principal dwelling or in an accessory building located on the premises;
- (e) There shall be no sales made in connection with such home occupation to customers who come onto the premises;
- (f) Homeowner operated service businesses are permitted subject to restrictions within these regulations.
- (g) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
- (h) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, television receiver, telephone, garage door opener, etc. off the premises, or causes fluctuations in line voltage off the premises;
- (i) Any person wishing to conduct a home occupation shall apply for an accessory use

permit from the Village Manager, submitting all information as required by the Village Manager to demonstrate that the provisions of this section will be met. The Village Manager may issue a permit to the applicant for a period of not more than two years. Upon expiration of the permit, the Village Manager may issue a new permit if satisfied that the applicant continues to be in compliance with the provisions of this section. A permit may be revoked at any time the Village Manager determines that the provisions of this section are not being met by the permit holder. Before issuing a permit, the Village Manager shall collect a fee of \$10.

(2) Garages.

(a) Attached garages may not exceed 1,500 square feet or 40% of the floor area of the remaining principal structure, whichever is less. A garage may not have its principal access face a street. Detached garages are treated as accessory structures.

(b) No automobiles, other motor driven vehicles or trailers shall be parked or stored in such structures or buildings unless owned and used by the occupants of the dwelling to which the structure or building is accessory or is a part of or attached.

(3) Pools. See Ch. 98, § 98.01 and § 98.02.

(4) Temporary buildings for uses incidental to construction work, which buildings shall be removed on completion or abandonment of the construction work.

(5) Bulletin boards and signs as follows:

(a) Church or public building bulletin boards not exceeding ten square feet in area.

(b) Temporary signs not over 40 inches from the ground and not exceeding six square feet in area, the purpose of which is to communicate information about the lease or sale of a building or lot, which signs shall be removed as soon as the property is leased or sold.

(c) Small announcements or professional signs not over one square foot in area;

(d) Highway directional and traffic safety signs erected and maintained by public agencies;

(e) Outdoor election signs, provided that they may not be erected prior to four weeks before the day of election and that the owner of the property on which the sign is located must cause the sign to be removed within 72 hours after the election; a sign permitted under this section shall not exceed 12 square feet in area and the aggregate of all signs placed on any parcel of real property in one ownership shall not exceed 60 square feet, nor shall they be posted such that the bottom edge of each sign is more than 40 inches from the ground;

(f) No sign may be posted on public property or within the public right-of-way along public roads, except village corporation signs, highway directional or regulatory signs and traffic safety signs erected and maintained by public agencies. All signs shall be placed in such manner that they will not obstruct the vision of drivers with regard to oncoming or intersecting traffic on any public or private roads or driveways.

(6) No equipment or process shall be used as a hobby or vocation which created noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, television receiver, telephone, garage door openers, etc. off the premises, or causes fluctuations in line voltage off the premises.

(C) Conditional uses. Buildings, and village owned land, designed to be occupied by or

to serve the general public may be constructed and/or utilized in Residence A and Residence B Districts provided they are authorized pursuant to a conditional use permit granted by the Board of Zoning Appeals. Public buildings subject to the conditional use permit regulations are: libraries, museums, community buildings, municipal buildings, police or fire stations, churches, and off-street parking to service such structures. The Board of Zoning Appeals may grant a conditional use permit for any of the foregoing structures if, upon application by the instrumentality that proposes to construct and operate the building and after a hearing, the Board of Zoning Appeals determines the following:

- (1) The construction and operation of the proposed public building will not be detrimental to the peaceful occupancy of proximate dwelling houses;
- (2) The construction and operation of the public building will not have a detrimental effect upon the property values in the neighborhood;
- (3) The design of the proposed public building is such that it will not have an adverse impact upon the residential quality of the neighborhood;
- (4) The public building will have off-street parking on the same parcel of land equal to one parking space for each three seats of seating capacity in the structure, or one parking space for each 200 square feet of floor area in any building which does not provide seating capacity. The off-street parking shall be set back a minimum of 100 feet from all abutting streets and a minimum of 25 feet from any lot line of any contiguous lot;
- (5) If the plan for a public building includes a fenced area to be used for outdoor games, recreation or play, the fenced areas designed for these uses shall be set back from all lot lines by a distance of at least 50 feet;
- (6) Any use authorized by the Board of Zoning Appeals as a conditional use shall not be used for any bazaar, fete or any other such outdoor activity and provided further that said land and building shall not be used for any commercial activity unless sponsored or directed by the regular and primary occupant of said building. As used herein, COMMERCIAL shall mean having financial profit as its primary aim but shall not include the renting of facilities for religious occasions, to charitable or civic organizations for meetings or to individuals or groups for weddings, anniversaries and other similar celebrations.

SECTION 4: Section 154.30 of the Municipal Code of Ordinances is amended to read as follows:

§ 154.30 USE REGULATIONS.

All zoning regulations for the Residence B District shall be the same as those in the Residence A District unless otherwise provided for in the Zoning Code. The following additional conditional uses must meet the same standards for conditional uses set forth in § 154.25(C).

(A) Schools, including public elementary schools and high schools and educational institutions having curricula ordinarily found in public schools, and recognized by the Ohio Department of Education as offering curricula sufficient to satisfy the

requirements of any existing compulsory education laws of the State of Ohio. The off-street parking requirements outlined in § 154.25(C) do not apply to schools; instead, schools must provide sufficient off-street parking capacity to accommodate teachers, staff and visitors.

(B) Private recreational facilities, other than country clubs and golf courses, not operated for profit or as a commercial venture, which are located on a lot having a minimum area of four acres, and which provide off-street parking, in accordance with § 154.25(C).

SECTION 5: Section 154.26 of the Municipal Code of Ordinances, which reads as follows, is repealed:

§ 154.26 HEIGHT REGULATIONS.

No building shall exceed two and one-half stories or 35 feet in height, except as provided in § 154.51.

SECTION 6: Section 154.31 of the Municipal Code of Ordinances, which reads as follows, is repealed:

§ 154.31 HEIGHT REGULATIONS.

No building shall exceed two and one-half stories or 35 feet in height, except as provided in § 154.51.

SECTION 7: Section 154.51 of the Municipal Code of Ordinances is amended to read as follows:

EXCEPTIONS, MODIFICATIONS, AND ADDITIONAL RULES FOR ALL DISTRICTS

§ 154.51 HEIGHT REQUIREMENTS.

(A) Residential structures.

(1) Principal structures in residential areas may not exceed 35 feet in height.

(2) Accessory structures in residential areas may not exceed 16 feet in height, or up to the same height as the principal structure, whichever is less.

(B) Public, semi-public, or public service buildings, hospitals, institutions, churches, or schools, when permitted in a residential district, may be erected to a height not exceeding 60 feet, if the building is set back from each yard line at least three feet for each foot of additional building height above the height limit otherwise permitted in the district in which the building is to be located.

(C) Height limitations do not apply to spires, belfries, cupolas, water tanks, cooling towers, elevator penthouses, ventilators, chimneys, stacks, radio towers, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(D) For the purposes of height measurements, a basement shall not be counted unless more than three feet six inches of its height projects above grade at the front building line, in which case it shall be counted.

SECTION 8: That this Ordinance is declared to be emergency legislation, necessary for the immediate preservation of the public peace, health, and safety. Such emergency is necessary to implement new zoning regulations in response to a temporary moratorium enacted by Village Council and to enable the termination of the moratorium as soon as possible to release restrictions on the use of residents' properties.

Passed this ____ day of _____, 2018.

Mayor Thomas C. Muething

Attest:

Nicole Browder, Clerk of Council

Ordinance Vote:

Moved: ____ Seconded: _____

Muething _____
Wolf _____
Bardach _____
Conway _____
Hattenbach _____
Kamine _____
Warren _____

I, Clerk of Council of Amberley Village, Ohio, certify that on the ____ day of _____, 2018, the forgoing Ordinance was published pursuant to Article IX of

the Home Rule Charter by posting true copies of said Ordinance at all of the places of public notice as designed by Sec. 31.40(B), Code of Ordinances.

Nicole Browder, Clerk of Council