

VILLAGE OF MARIEMONT, OHIO

ORDINANCE NO. 0-7-20

TO AMEND SECTION 151.024, OF THE POWERS AND DUTIES OF THE PLANNING COMMISSION, OF THE MARIEMONT CODE OF ORDINANCES

WHEREAS, the Rules and Law Committee has been meeting at the request of Council to review the Mariemont Code and to recommend updates as appropriate; and

WHEREAS, the Rules and Law Committee has reviewed Section 151.024 regarding the Powers and Duties of the Planning Commission of the Mariemont Code of Ordinances and has made suggested changes to that code section; and

WHEREAS, Council believes it is in the best interest of the Village that Section 151.024 be amended to reflect said changes.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MARIEMONT, STATE OF OHIO, TWO THIRDS OF THE MEMBERS DULY ELECTED THERETO CONCURRING:

SECTION I.

§151.024 POWERS AND DUTIES OF THE PLANNING COMMISSION which reads as follows:

§ 151.024 POWERS AND DUTIES OF THE PLANNING COMMISSION.

(A) The Planning Commission (see § 37.01) shall exercise the powers and perform the duties of a Planning Commission as authorized by R.C. Ch. 713. All meetings shall be public in conformance with requirements of R.C. § 121.22. In exercising its jurisdiction, the Planning Commission shall adopt from time to time such general rules and regulations relating to its procedure as it may deem necessary and shall designate the member or members of the Planning Commission who shall be authorized by the Planning Commission to endorse applications for building permits in accordance with the Building Code.

(B) The Planning Commission shall also act as a Zoning Board of Appeals and is delegated power to hear and determine appeals from any decision, including the grant or refusal by the Building Commissioner of building or other permits, where such decision, grant, or refusal is based on the requirements of this chapter, and power to permit exceptions and variations from the district regulations in the classes of cases and situations hereinafter set forth, including the granting of subdivision of existing parcels or a planned unit development, and conditional use permits. If approval of a conditional use heretofore not permitted, the recommendation must be approved by Council (see Appendix E).

(C) Appeals, requests for conditional use variances, and requests for subdivision of existing parcels may be taken to the Planning Commission by any person or by any officer, board, or commission of the village, seeking a conditional use variance, a division of parcel, or affected by the grant or refusal of a building permit, certificate of occupancy, or by any other decision of the Building Commissioner where such decision is based on the requirement of this chapter. An appeal shall be filed with the Planning Commission within 30 days from

the date of the grant, refusal, or other decision of the Building Commissioner. Historic structures or structures located within a historic district shall apply for a certificate of appropriateness from the Architectural Review Board prior to bringing an appeal to the Planning Commission (see § 151.021(E) and Appendix E). Appeals from a Building Commissioner decision regarding the Building Code may be taken to the Building Appeal Board (see Building Code, 1260: PM-106). The entity filing an appeal of a refusal by the Building Commissioner to issue a permit shall furnish to the Building Department by the first Wednesday of the month the following materials:

(1) Written narrative that addresses the criteria for granting a property variance, drawings, and other descriptive data to clearly define the nature and extent of the proposed property variance; and

(2) The names and address of all abutting property owners.

(D) Hearings of the Planning Commission shall be public. Notice of hearing of each appeal or request shall be given by the Commission by publication one time in a newspaper or other publication distributed generally to residents of the village or posting in five conspicuous places designated by the Council as places for posting ordinances, resolutions, and notices. Such publication or posting shall be effective not less than six days in advance of the date of the hearing. Notice shall be mailed to all property owners abutting the property under appeal. A 24-inch by 30- inch sign shall be placed in the front yard of the subject property six days in advance of the hearing by a Building Department representative conspicuously advertising to the passing public the time and date of appeal. The sign shall be only removed by a Building Department representative the day following the hearing. The cost of the sign shall be included in the appeal fee.

(E) Hearings shall be held within a reasonable time after the filing of the appeal or request and the giving of notice thereof. The Commission may go into executive session as per R.C. § 121.22. The Commission, in conformity with its interpretation of the provisions of this chapter, or under its powers to permit exceptions and variations hereinafter set forth, may affirm or reverse in whole or in part or may modify the ruling or decision of the Building Commissioner appealed from.

(F) The Commission shall decide all requests for a conditional use, the subdivision of an existing parcel, and all appeals by resolution. The votes of a majority of the members of the Commission in favor of any resolution shall be required for its adoption. Concise minutes and records shall be kept as to all official acts of the Board with respect to any decisions and appeals.

(G) The Planning Commission shall, on the adoption of any resolution, date and record it, and forthwith mail or deliver a copy of that decision to the appellant or party making the request. Within ten days from that date, the appellant or party making the request may file an appeal with the Council of the village. No decision of the Planning Commission shall be reversed or modified by the Council unless at least five-sixths of the members of the full membership of Council shall concur. The granting of a conditional use permit by the Planning Commission shall be approved by the Council with five-sixths of the full membership concurring.

(H) In considering zoning appeals and requests, the Commission shall have the power to grant a conditional use variance, to grant a subdivision of land, or reverse or modify a ruling or decision of the Building Commissioner, in the following respects:

(1) *Subdivision of land.* Subdivision of land may be granted according to provisions in § 151.041 and § 151.075(H)(2)(n); provided, that the proposed subdivision will be consistent with the intent and purpose of this chapter and will not be materially injurious to properties in the immediate vicinity.

(2) *Signage variances.* The Commission shall have the power to overturn a decision of the Building Commissioner regarding signage requirements as set forth in §§ 151.125 through 151.133 under the circumstances found in either divisions (H)(2)(a) or (H)(2)(b) below, and all the circumstances found in divisions (H)(2)(c) and (H)(2)(d) below:

- (a) When there is reasonable doubt as to any provision of this chapter as applied to such property; or
- (b) Exceptional or extraordinary circumstances or conditions apply to the subject property that do not apply generally to other properties in the village; and
- (c) The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity in which the property is located; and
- (d) The following design requirements are met.

1. For buildings which are parts of complexes involving several buildings designed by the same architect to form a consistent, harmonious entity, exterior paint or stain colors for all parts of the complex, including signage, irrespective of diversity of ownership, shall be chosen which reflect the character, style, and materials of the buildings.

2. Signage shall take into consideration exterior detail and relationships, compatibility and appropriateness of design and details, including all projecting and receding elements of the exterior, including, but not limited to, porches, overhangs, and the horizontal or vertical expression which is conveyed by these elements.

3. Any sign shall be of material and style harmonious to the overall theme of the area.

(3) *Property variances.*

(a) The Commission shall have the power to grant a variation in the property provisions and requirements of this chapter which will not be contrary to the public interest or intent and purpose of this chapter, so that the public health, safety, convenience, comfort, prosperity, and general welfare will be conserved and substantial justice done, but only where, owing to special conditions pertaining to a specific piece of property, the strict application of the provisions or requirements of this chapter would cause a clearly demonstrable hardship.

(b) Variances may be granted under the following circumstances:

- 1. When there is reasonable doubt as to any provision of this chapter or the building zone map as applied to such property; or
- 2. When the following facts and conditions exist:
  - a. An exceptional narrow, shallow, or irregular lot, exceptional topographical conditions existing and of record June 27, 1941; or

b. Large "specimen" trees are in jeopardy; or

c. Where, by reason of extraordinary or exceptional circumstances or conditions, the literal enforcement of the requirements of this chapter would involve practical difficulty or would cause unnecessary hardship, or would not carry out the spirit and purpose of this chapter; and

d. Such variance is necessary for the use and enjoyment of the property in a manner similar to that which other property in the village is used; and

e. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity in which the property is located; and

f. That the condition or situation of the subject property, or the intended use of the property, for which variance is sought, is not so general or recurrent a nature as to make reasonably practical the formulation of general regulations for such conditions or situation.

(c) In exercising any of the foregoing powers, the Commission may impose such special conditions or requirements as it shall deem necessary or desirable under the circumstances to reduce any adverse effect of any permission or grant, on the character and development of the district in which the specific property is located.

(4) *Conditional use.* The Commission shall have the power to hear, decide, grant, or deny applications for conditional uses in accordance with the provisions found in §§ 151.021(D) and 151.050.

(a) The granting of such application shall be made only if such conditional use, exception, or modification:

1. Will not be materially detrimental or injurious to property in the village;
2. Will be consistent with the predominant or prevailing district land use, building and structure patterns, and the intent and purpose of this chapter.

(b) The Commission may impose, in addition to the minimum requirements and conditions specifically set forth for the conditional use, exception, or modification in question such special conditions or requirements as it shall deem necessary or desirable under the circumstances to reduce any adverse effect on property in the vicinity, or on the character and development of the district in which the specific property is located including:

1. Limitations on signs;
2. Limitations on building materials; or
3. Requirements for open spaces, screening, landscaping, construction of fences and other barriers, shielding of floodlights, erection of safety devices, location of vehicular entrances and exits, and surfacing of roads and driveways.

(c) Such other requirements and conditions as may be necessary to:

1. Safeguard the public health, safety, convenience, and general welfare;
  2. Minimize the adverse impact of adjoining properties in the district or vicinity; and
  3. Protect and preserve the character, attractions and orderly development of the district or vicinity.
- (2000 Code, § 151.025) (Ord. O-4-96, passed 3-25-1996; Ord. O-16-03, passed 11-24-2003; Ord. O-12-06, passed 12-26-2006)

Is hereby deleted and the new section 151.024(G) shall now read as follows:

**§ 151.024 POWERS AND DUTIES OF THE PLANNING COMMISSION.**

(A) The Planning Commission (see § 37.01) shall exercise the powers and perform the duties of a Planning Commission as authorized by R.C. Ch. 713. All meetings shall be public in conformance with requirements of R.C. § 121.22. In exercising its jurisdiction, the Planning Commission shall adopt from time to time such general rules and regulations relating to its procedure as it may deem necessary and shall designate the member or members of the Planning Commission who shall be authorized by the Planning Commission to endorse applications for building permits in accordance with the Building Code. The Planning Commission will meet in January each year to vote on who will be the Chair, Vice-Chair, and Secretary for the upcoming year.

(B) The Planning Commission shall also act as a Zoning Board of Appeals and is delegated power to hear and determine appeals from any decision, including the grant or refusal by the Building Commissioner of building or other permits, where such decision, grant, or refusal is based on the requirements of this chapter, and power to permit exceptions and variations from the district regulations in the classes of cases and situations hereinafter set forth, including the granting of subdivision of existing parcels or a planned unit development, and conditional use permits. If approval of a conditional use heretofore not permitted, the recommendation must be approved by Council (see Appendix E). No member of the Planning Commission shall participate in the review of any work of which he, she, or any partner or professional associate is the author, or in which he, she, or they may have any direct or indirect financial interest.

(C) Appeals, requests for conditional use variances, and requests for subdivision of existing parcels may be taken to the Planning Commission by any person or by any officer, board, or commission of the village, seeking a conditional use variance, a division of parcel, or affected by the grant or refusal of a building permit, certificate of occupancy, or by any other decision of the Building Commissioner where such decision is based on the requirement of this chapter. An appeal shall be filed with the Planning Commission within 30 days from the date of the grant, refusal, or other decision of the Building Commissioner. Historic structures or structures located within a historic district shall apply for a certificate of appropriateness from the Architectural Review Board prior to bringing an appeal to the Planning Commission (see § 151.021(E) and Appendix E). Appeals from a Building Commissioner decision regarding the Building Code may be taken to the Building Appeal Board (see Building Code, 1260: PM-106). The entity filing an appeal of a refusal by the Building Commissioner to issue a permit shall furnish to the Building Department by the first Wednesday of the month the following materials:

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(2) The names and address of all abutting property owners.

(D) Hearings of the Planning Commission shall be public in conformance with requirements of R.C. §121.22. Notice of hearing of each appeal or request shall be given by the Commission by publication one time in a newspaper or other publication distributed generally to residents of the village or posting in five conspicuous places designated by the Council as places for posting ordinances, resolutions, and notices. Such publication or posting shall be effective not less than six days in advance of the date of the hearing. Notice shall be

mailed to all property owners abutting the property under appeal. A 24-inch by 30-inch sign shall be placed in the front yard of the subject property six days in advance of the hearing by a Building Department representative conspicuously advertising to the passing public the time and date of appeal. The sign shall be only removed by a Building Department representative the day following the hearing. The cost of the sign shall be included in the appeal fee.

(E) Hearings shall be held within a reasonable time after the filing of the appeal or request and the giving of notice thereof. The Commission may go into executive session as per R.C. § 121.22. The Commission, in conformity with its interpretation of the provisions of this chapter, or under its powers to permit exceptions and variations hereinafter set forth, may affirm or reverse in whole or in part or may modify the ruling or decision of the Building Commissioner appealed from.

(F) The Commission shall decide all requests for a conditional use, the subdivision of an existing parcel, and all appeals by resolution. The votes of a majority of the members of the Commission in favor of any resolution shall be required for its adoption. Concise minutes and records shall be kept in the Village office as to all official acts of the Board with respect to any decisions and appeals. A copy shall be provided to Council.

(G) The Planning Commission shall, on the adoption of any resolution, date and record it, and forthwith mail or deliver a copy of that decision to the appellant or party making the request. Within ten days from that date, the appellant or party making the request may file an appeal with the Council of the village. No decision of the Planning Commission shall be reversed or modified by the Council unless at least two-thirds of the members of the full membership of Council shall concur. The granting of a conditional use permit by the Planning Commission shall be approved by the Council with two-thirds of the full membership concurring.

(H) In considering zoning appeals and requests, the Commission shall have the power to grant a conditional use variance, to grant a subdivision of land, or reverse or modify a ruling or decision of the Building Commissioner, in the following respects:

(1) *Subdivision of land.* Subdivision of land may be granted according to provisions in § 151.041 and § 151.075(H)(2)(n); provided, that the proposed subdivision will be consistent with the intent and purpose of this chapter and will not be materially injurious to properties in the immediate vicinity.

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- (a) When there is reasonable doubt as to any provision of this chapter as applied to such property; or
- (b) Exceptional or extraordinary circumstances or conditions apply to the subject property that do not apply generally to other properties in the village; and
- (c) The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity in which the property is located; and
- (d) The following design requirements are met.

1. For buildings which are parts of complexes involving several buildings designed by the same architect to form a consistent, harmonious entity, exterior paint or stain colors for all parts of the complex, including signage, irrespective of diversity of ownership, shall be chosen which reflect the character, style, and materials of the buildings.

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b. Large "specimen" trees are in jeopardy; or

c. Where, by reason of extraordinary or exceptional circumstances or conditions, the literal enforcement of the requirements of this chapter would involve practical difficulty or would cause unnecessary hardship, or would not carry out the spirit and purpose of this chapter; and

d. Such variance is necessary for the use and enjoyment of the property in a manner similar to that which other property in the village is used; and

e. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity in which the property is located; and

f. That the condition or situation of the subject property, or the intended use of the property, for which variance is sought, is not so general or recurrent a nature as to make reasonably practical the formulation of general regulations for such conditions or situation.

(c) In exercising any of the foregoing powers, the Commission may impose such special conditions or requirements as it shall deem necessary or desirable under the circumstances to reduce any adverse effect of any permission or grant, on the character and development of the district in which the specific property is located.

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(a) The granting of such application shall be made only if such conditional use, exception, or modification:

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(b) The Commission may impose, in addition to the minimum requirements and conditions specifically set forth for the conditional use, exception, or modification in question such special conditions or requirements as it shall deem necessary or desirable under the circumstances to reduce any adverse effect on property in the vicinity, or on the character and development of the district in which the specific property is located including:

1. Limitations on signs;
2. Limitations on building materials; or
3. Requirements for open spaces, screening, landscaping, construction of fences and other barriers, shielding of floodlights, erection of safety devices, location of vehicular entrances and exits, and surfacing of roads and driveways.

(c) Such other requirements and conditions as may be necessary to:

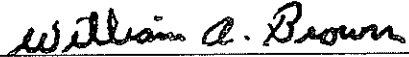
1. Safeguard the public health, safety, convenience, and general welfare;
2. Minimize the adverse impact of adjoining properties in the district or vicinity; and
3. Protect and preserve the character, attractions and orderly development of the district or vicinity.

(2000 Code, § 151.025) (Ord. O-4-96, passed 3-25-1996; Ord. O-16-03, passed 11-24-2003; Ord. O-12-06, passed 12-26-2006)


**SECTION II.** In all other respects §151.024 of the Mariemont Code of Ordinances shall remain in full force and effect.

**SECTION III.** This Ordinance shall take effect at the earliest date allowed by law.

Passed: February 24, 2020.

  
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William Brown, Mayor

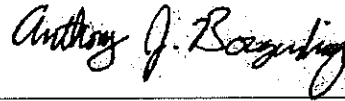
ATTEST:

  
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Anthony Borgerding, Fiscal Officer

I, Anthony Borgerding, Fiscal Officer of Council of the Village of Mariemont, Ohio, do hereby certify that there is no newspaper printed in said municipality and that publication of the foregoing Ordinance was duly made by posting true copies thereof at five of the most public places in said corporation as determined by the Council, as follows: the Concourse, Miami Bluff and Flintpoint Way; the Tennis Court property, on the east side of Plainville



Road between Maple and Chestnut Streets; the site of the Municipal Building. Wooster Pike and Crystal Springs Road; the northeast corner of the intersection of Rembolt and Miami Road inside the enclosure; the northwest corner of the Old Town Center, intersection of Chestnut and Oak Streets; each for a period of fifteen days commencing on the 25<sup>th</sup> day of February 2020.



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Anthony Borgerding, Fiscal Officer