



**City of Pataskala Planning & Zoning Department**  
**Scott Fulton, Director of Planning**  
*Director of Planning's Report to Council*

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**Current Projects & Issues**

➤ **Board of Zoning Appeals**

**September 13, 2016 Hearing:** The following application is scheduled to be heard at the September 13, 2016 Board of Zoning Appeals hearing.

- Application VA-16-019: Chris Gray is requesting a variance from Section 1203.03 of the Pataskala Code to allow for an accessory building to be located on a property without a principal building.

➤ **Planning and Zoning Commission:**

**September 7, 2016 Hearing:** The following application is scheduled to be heard at the September 7, 2016 Planning and Zoning Commission hearing:

- Application ZON-16-005: The Fraker Family trust is requesting to rezone property from the AG – Agricultural District to the R-20 – Medium Density Residential district for the property located at 7000 Creek Road.

➤ **Old Summit Town**

- Staff contacted the demolition company regarding the status of the EPA permit but has not heard back.
- Staff contacted the company responsible for the donation box on the property but has not heard back.

➤ **International Manufacturing Technology Show**

- I will be attending the international Manufacturing Technology Show in Chicago from September 11 to September 15 with a group from GROW Licking County.

➤ **Code Enforcement Policies and Procedures**

- The Planning and Zoning Department has created formal policies and procedures for the code enforcement process and repeat violations (attached).

➤ **Zoning Permit Inspection Policies and Procedures**

- The Planning and Zoning Department has created formal policies and procedures for inspections for approved zoning permits (attached).

➤ **Deck Regulations**

- At the August 15<sup>th</sup> Council meeting, staff provided a revised copy of the regulations for review and comment. A summary of that review is attached. Also attached is a redlined version of the regulations that will be presented for adoption.



## CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

621 West Broad Street, Suite 2A  
Pataskala, Ohio 43062

### CODE ENFORCEMENT PROCESS

The following is an outline of how the code enforcement process should function. The Zoning Inspector has the ability to observe a zoning violation and implement the code enforcement process without a formal complaint. If this occurs, the process then begins at Step 3.

The code enforcement process may deviate from the process outlined below if the Zoning Inspector determines that the owner or tenant is working to remedy the code violation but needs additional time. The granting of additional time and the period of time to correct the violation is at the discretion of the Zoning Inspector.

#### 1. Complaints

- All complaints shall be sent to the Zoning Inspector.
- The Zoning Inspector shall inform the Zoning Clerk that a complaint was received. The Zoning Clerk shall assign the complaint a violation number and update the database accordingly.

#### 2. Investigation

- Complaint is investigated by the Zoning Inspector to determine if a violation exists.
- If a violation exists, the Zoning Inspector photographs the violation.
- If no violation exists, the Zoning Inspector shall notify the Zoning Clerk that no violation exists. The Zoning Clerk shall assign the complaint a violation number and update the database stating no violation was found.

#### 3. Door Hanger/Door Knock

- The Zoning Inspector shall notify the owner or tenant of the violation in person.
- If the owner or tenant is unavailable, the Zoning Inspector shall leave a door hanger indicating that a violation exists on the property.
- The Zoning Inspector shall inform the Zoning Clerk that a Door Hanger/Door Knock was issued. The Zoning Clerk shall update the database for the assigned violation number.
- The Zoning Inspector shall re-inspect the property seven days after the issuance of the Door Hangar/Door Knock.

#### 4. Courtesy Letter

- If upon re-inspection it is determined that the violation still exists, the Zoning Inspector shall photograph the violation and issue a Courtesy Letter sent by first class mail to the tenant and/or property owner.
- The Zoning Inspector shall provide a copy of the Courtesy Letter to the Zoning Clerk. The Zoning Clerk shall update the database for the assigned violation number, scan a copy of the Courtesy Letter and hyperlink the scan in the database.

- The Zoning Inspector shall re-inspect the property seven days after the issuance of the Courtesy Letter.

#### 5. Violation Letter

- If upon re-inspection it is determined that a violation still exists, the Zoning Inspector shall photograph the violation and issue a Violation Letter sent by certified mail to the tenant and/or property owner.
- The Zoning Inspector shall provide a copy of the Violation Letter to the Zoning Clerk. The Zoning Clerk shall update the database for the assigned violation number, scan a copy of the Violation Letter and hyperlink the scan in the database.
- The Zoning Inspector shall re-inspect the property based upon the prescribed time duration in the Pataskala Code for the applicable code violation.

#### 6. Mayor's Court Summons

- If upon re-inspection it is determined that a violation still exists, the Zoning Inspector shall photograph the violation and prepare a Mayor's Court Summons.
- The Mayor's Court Summons is signed by the Zoning Inspector in the presence of a notary who notarizes the summons.
- The prepared Mayor's Court Summons and photographs shall be taken to the Mayor's Court Magistrate for their signature, indicating probable cause.
- The Mayor's Court Summons is taken to the Clerk of Court and a court date is assigned.
- Copies of the Mayor's Court Summons are sent by both first class and certified mail to the tenant and/or property owner. If the certified letter is returned unopened, The Zoning Inspector shall notify the Clerk of Council that the Police Department needs to serve the Mayor's Court Summons in person.
- The Zoning Inspector shall provide a copy of the Mayor's Court Summons to the Zoning Clerk. The Zoning Clerk shall update the database for the assigned violation number including the assigned court case number, scan a copy of the Mayor's Court Summons and hyperlink the scan in the database.

#### 7. Mayor's Court

- The Zoning Inspector shall photograph the violation on the date of the hearing prior to Mayor's Court and give the photographs to the Clerk of Court.
- The Zoning Inspector shall be present during Mayor's Court.

#### 8. Resolution

- If at any time during the Code Enforcement Process the violation has been resolved, the case shall be considered closed.
- The Zoning Inspector notify the Zoning Clerk that the violation has been resolved and the case has been closed. The Zoning Clerk shall update the database accordingly.



## CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

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### REPEAT VIOLATION PROCESS

The following is an outline of how the code enforcement process should function for repeated instances of the same code violation on the same property. For example, if a particular property has received a violation notice for the same offense in the past, the code enforcement process does not need to start over from the beginning. The Zoning Inspector shall begin at the next step in the process as the property owner and/or tenant is aware that the activity resulting in a code violation is not permitted. This also provides a shorter timeframe in which the violation is to be resolved

1. First Violation for the Same Offense
  1. Door Hangar/Door Knock
  2. Courtesy Letter
  3. Violation Letter
  4. Mayor's Court
  
2. Second Violation for the Same Offense
  1. Courtesy Letter
  2. Violation Letter
  3. Mayor's Court
  
3. Third Violation for the Same Offense
  1. Violation Letter
  2. Mayor's Court
  
4. Fourth or More Violation for the Same Offense
  1. Mayor's Court



## **CITY OF PATASKALA PLANNING & ZONING DEPARTMENT**

621 West Broad Street, Suite 2A  
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### **ZONING PERMIT INSPECTION PROCEDURE**

The following is an outline of how the inspection process should function. The inspection process may deviate from the process below based upon extenuating circumstances.

1. All requests for an inspection should be sent directly to the Zoning Inspector.
2. The Zoning Inspector will be responsible for scheduling and performing the inspection.
3. The Zoning Inspector will inspect the property to determine if the improvement is in compliance with the approved zoning permit.
4. If upon inspection the improvement is determined to be in compliance with the approved zoning permit, the Zoning Inspector shall approve the inspection and leave a door hanger indicating that the inspection was approved.
5. If upon inspection the improvement is determined not to be in compliance with the approved zoning permit, the Zoning Inspector shall not approve the inspection and leave a door hanger indicating that the inspection was not approved.
6. The Zoning Inspector will then notify the Zoning Clerk of the inspection results and the Zoning Clerk will update the permit database for approved inspections only. For zoning permit inspections not approved, the Zoning Inspector will repeat the steps outlined above until the improvement passes an inspection.
7. If an improvement repeatedly does not pass an inspection and a resolution cannot be reached, the Zoning Inspector will begin the Code enforcement process.



## CITY OF PATASKALA PLANNING AND ZONING COMMISSION

City Hall, Council Chambers  
621 West Broad Street  
Pataskala, Ohio 43062

Omitted  
Modified  
Original

### ATTACHMENT A

#### 1203 – DEFINITIONS

~~Deck: An unroofed platform~~ A platform, not fully located under a roof, freestanding or attached to a building the principle structure which is supported by pillars or posts.

Porch: A fully roofed platform attached to the principle structure. A porch is external to the walls of the principle structure but it may be enclosed in certain types of frames including walls, column or screens.

Patio: A hard-surfaced area on the ground adjoining the principle structure. Common materials used for patios include concrete, stone, bricks, tiles, or cobbles.

Balcony: A platform attached to the principle structure projecting from the wall above the ground floor.

#### ~~1221.06 – DECKS~~ 1221.07 - ARCHITECTURAL IMPROVEMENTS.

Structures and projections such as porches, decks, balconies, patios and similar uses shall be considered architectural improvements.

A. Permitted: ~~A deck~~ Architectural improvements shall be permitted in all zoning districts.

B. Setbacks:

##### 1. Residential:

- i. Front: ~~A deck~~ An architectural improvement shall meet all front yard setbacks of the zoning district in which it is located.
- ii. Rear: ~~A deck~~ An architectural improvement shall not extend more than 25 percent into the required rear yard setback of the zoning district in which it is located.
- iii. Side: ~~A deck~~ An architectural improvement shall meet the required side yard setbacks of the zoning district in which it is located or shall not extend further into the side yard setback that the principal building on the lot, whichever is less.

##### 2. Commercial:

- i. Front: ~~A deck~~ An architectural improvement shall meet all front yard setbacks of the zoning district in which it is located.
- ii. Rear: ~~A deck~~ An architectural improvement shall not extend more than 25 percent into the required rear yard setback of the zoning district in which it is located.

- iii. ~~A deck~~ An architectural improvement shall meet the required side yard setbacks of the zoning district in which it is located or shall not extend further into the side yard setback that the principal building on the lot, ~~whichever is less.~~ shall not extend more than 25 percent into the required side yard setback of the zoning district in which it is located.
- C. Height: ~~A deck~~ shall not exceed the maximum height of the zoning district in which it is located. ~~The floor of an architectural improvement shall not be higher than the highest floor level of the principal structure on the lot.~~
- D. Appearance: ~~A deck~~ An architectural improvement shall have a finish that is compatible with the principal building on the lot.
- E. Location:
  - 1. ~~A deck~~ An architectural improvement shall not be located in a recorded easement.
  - 2. ~~A deck shall be located directly adjacent to the principal building on the lot.~~
  - 3. ~~A deck~~ An architectural improvement shall not infringe on sanitary or water systems and shall comply with all applicable Licking County Health Department and/or Ohio Environmental Protection Agency regulations.
- F. Commercial Use: No commercial use shall be permitted from ~~a deck~~ an architectural improvement on a residentially zoned lot unless approved as part of a home occupation as outlined in Chapter 1267.
- G. Off-Site Impacts: ~~A deck~~ An architectural improvement shall not adversely affect neighboring properties so as to result in its loss of value or interfere with its use or enjoyment.
- H. Materials: All ~~decks~~ architectural improvement materials shall be approved materials recognized by the Ohio Building Code.
- I. Maintenance: ~~A deck~~ An architectural improvement shall be maintained in good repair at all times.



## CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

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### CITY COUNCIL COMMENTS AND QUESTIONS

Ordinance 2016-4267

#### General Comments and Questions

- Council Comment: Remove the word “architectural”.
  - Staff Rationale: Merriam Webster defines the term “architectural” as “having or conceived of as having a single unified overall design, form or structure”. Using “Architectural Improvements” provides a term that encompasses all the improvements listed above and would not require a separate section for each of these improvements.
- Council Comment: I think this should show more detail.
  - Staff Rationale: Staff’s desire was to create a set of regulations that was not overly burdensome and would provide flexibility. The fee schedule requires permits for architectural improvements; however, the Code does not provide a set of regulations that govern what requirements must be met in order to approve the permit. When a legal opinion was used as a regulatory basis, it resulted in a number of variances. This created a situation that is unfair to the residents and the proposed regulations are designed to remedy this situation.
- Council Comment: Like to see actual inspections and what they are required to have inspected at a local level.
  - Staff Rationale: The Planning and Zoning Department inspects architectural improvements upon completion to ensure that they comply with the approved zoning permit.

#### Section Specific Comments and Questions

##### B. Setbacks:

###### *1. Residential:*

*iii. Side: An architectural improvement shall meet the required side yard setbacks of the zoning district in which it is located or shall not extend further into the side yard setback than the principal building on the lot, whichever is less.*

- Council Comment: The same side yard regulations for commercial properties should be used for residential properties.



- Staff Rationale: Using the same side yard setback requirements as commercial properties for residential properties would actually make it more difficult to construct an architectural improvement, specifically in the old village area. For example, if the required side yard setback in a zoning district is 10 feet and the house is only setback five (5) feet, then the architectural improvement would only be able to encroach 2.5 feet into the required side yard setback. As a result, the architectural improvement must be 7.5 feet from the side property line. To put the architectural improvement in line with the house at five (5) feet from the side yard setback would require a variance.

Upon further review of the ordinance, staff has decided to increase 25 percent to 50 percent for side and rear yard setbacks in all zoning districts.

*D. Appearance: An architectural improvement shall have a finish that is compatible with the principal building on the lot.*

- Council Comment: Why?
  - Staff Rationale: Roughly 99 percent of all applications for architectural improvements are compatible in appearance with the principal structure on the lot. This provision is designed to eliminate the use of materials that would be inappropriate to use for an architectural improvement. This provision is also in Section 1221.05 which regulates accessory buildings.

*E. Location:*

*1. An architectural improvement shall not be located in a recorded easement.*

- Council Comment: Why?
  - Staff Rationale: A number of departments have provided feedback on why this provision is in the ordinance. Their rationale is listed below by department.
    - Planning and Zoning Department: The Planning and Zoning Department has the following comments:
      1. The construction of structures in easements almost always prohibited in subdivision plats. Based upon this, an architectural improvement in a recorded easement would not be permitted anyway.
      2. Pursuant to Section 1221.05, accessory buildings are not permitted to be located in recorded easements.
      3. The prohibition of placing architectural improvements in a recorded easement protects future property owners who might not know it was constructed in an easement. If work needs to be done in the easement, the architectural improvement could be removed with no responsibility to replace it.

4. If it were necessary to construct an architectural improvement in an easement, the property owner could apply for a variance to do so.
- Public Service Department: With regard to allowing the construction of property improvements in easements, I have the following comments:
    1. Surface Drainage Easements –Structures should not be permitted to be placed in surface drainage easements. These easements are created to allow storm water to drain off of properties via swales. Any structure placed within a surface drainage easement would be an obstruction that would act as a dam. Any obstruction that could impede the flow of water through these easements could cause flooding. To mitigate this potential, the City has the authority to remove obstructions to natural waterways per ORC Section 715.47, and although these are artificial waterways, they have been created and platted as waterways, which I would assert to be natural waterways by public creation; therefore, my stance is that not only should we not allow any obstructions to be placed in drainage easements, but that as a matter of public welfare, we are obligated to not allow obstructions in drainage easements.
    2. General Utility Easements – An easement is defined as: “a right to cross or otherwise use someone else’s land for a specified purpose.” My understanding of that definition is that when an easement is granted, one forfeits certain rights to the described piece of their property. As terms of easements are negotiated and not forced, are public knowledge, and had to have been granted by a landowner at some point, I cannot see any other valid interpretation. Therefore, whether subsurface, aerial, or surface, the rights of the grantee of an easement supersede the rights of the landowner insofar as use of that land to which it is addressed by the terms of the easement. That being the case, and per the terms of different easements, it would in fact be a violation of the grantee’s rights for a structure to be placed within certain easements. Similarly, the grantee typically has no obligation to the grantor for restoration of structures placed within an easement. This can lead to unfortunate situations where uninformed residents erect structures in an easement only for it to be removed by the grantee and not replaced. The current owner may be aware of this reality, but a future owner, to his/her own chagrin, may not. Considering these caveats, I opine that for the City to allow structures to be placed in any type of easement would be irresponsible at best, and even potentially illegal in some cases.
  - Utility Department: My concern regarding any shed, fence, patio or deck behind homes can be problematic, specifically in areas where sewer main is in the back. The integrity of the permanent easement must be maintained for future replacement or repair needs. The infrastructure located behind homes already includes logistical issues accessing the mains, let alone repair efforts. My

concern is multiplied if private structures are positioned on or too close to the easement as excavation activities will damage private property. A deck, patio, or shed will have to be removed to allow for equipment access. Then we will be required to potentially make private improvements that will affect the aesthetic quality of the improvement. If it is allowed to be put in the easement by the city, I feel repairs will have to be made by the city during the process. That will result in unhappy residents and operational budget impacts. Letting residents know ahead of an improvement that we will not be liable for repairs if we have to access the main may be a route to go.

- Law Director: As we discussed, I agree that the best practice is to prohibit building a deck over and across an easement. In essence, a variance would be required to do so. That way, each application could be judged independently on its merits. And, express conditions can be placed on the approval and the applicant will formally accept these conditions. In other words, no one can claim they never knew the deck would have to come down in order to allow work in the easement. Did you say that other structures are not allowed to be built in an easement? If so, a deck should be no different. A deck is a structure.

*G. Off-Site Impacts: An architectural improvement shall not adversely affect neighboring properties so as to result in the loss of value or interfere with its use or enjoyment*

- Council Comment: Too vague.
  - Staff Rationale: Admittedly this provision is a little vague; however, it was written to be open ended. It is difficult to pinpoint the number of ways that an issue could arise, so this was included as a way to address these issues if a neighboring property owner can prove there is an impact to their property. This provision is also in Section 1221.05 which regulates accessory buildings.

*I. Maintenance: An architectural improvement shall be maintained in good repair at all times.*

- Council Comment: Why?
  - Staff Rationale: This provision aligns with the adage that zoning is to protect the health, safety and welfare of the public. This provision is also in Section 1279.02 which regulates fences.



## CITY OF PATASKALA PLANNING & ZONING DEPARTMENT

621 West Broad Street, Suite 2A  
Pataskala, Ohio 43062

### ATTACHMENT A

September 6, 2016 Redline Version

Ordinance 2016-4267

The following is an updated version of the regulations for architectural improvements based upon city council comments, legal review and staff considerations. Additions are highlighted while omissions are struck through.

#### 1203 – Definitions

Deck: ~~A platform, not fully located under a roof, freestanding or attached to the principal structure which is supported by pillars or posts.~~ A platform, either open or partially located under roof, that is supported by pillars or posts. A deck may be either freestanding or attached to the principal structure.

Porch: ~~A fully roofed platform attached to the principal structure. A porch is external to the walls of the principal structure but it may be enclosed in certain types of frames including walls, column or screens.~~ A fully roofed platform, which may be enclosed by screens, attached to the principal structure with direct access to or from it.

Patio: ~~A hard surfaced area on the ground adjoining the principal structure. Common materials used for patios include concrete, stone, bricks, tiles or cobbles.~~ A hard surfaced area on the ground, typically adjoining the principal structure, constructed of concrete, bricks, tiles, pavers or similar materials.

Balcony: a platform attached to the principal structure projecting from the wall above the ground floor.

#### 1221.07 – Architectural Improvements

Structures and projections such as porches, decks, balconies, patios and similar uses shall be considered architectural improvements.

A. Permitted: Architectural improvements shall be permitted in all zoning districts.

B. Setbacks:

##### 1. Residential Districts

- i. Front: An architectural improvement shall meet all front yard setbacks of the zoning district in which it is located.
- ii. Rear: An architectural improvement shall not extend more than ~~25~~ 50 percent into the required rear yard setback of the zoning district in which it is located.

- iii. Side: An architectural improvement shall meet the required side yard setbacks of the zoning district in which it is located or shall not extend further into the side yard setback than the principal structure on the lot, whichever is less

2. Commercial and Industrial Districts

- i. Front: An architectural improvement shall meet all front yard setbacks of the zoning district in which it is located.
  - ii. Rear: An architectural improvement shall not extend more than ~~25~~ 50 percent into the required rear yard setback of the zoning district in which it is located.
  - iii. Side: An architectural improvement shall not extend more than ~~25~~ 50 percent into the required side yard setback of the zoning district in which it is located.
- C. Height: The floor of an architectural improvement shall not be higher than the highest floor level of the principal structure on the lot.
- D. Appearance: An architectural improvement shall have a finish that is compatible with the principal structure on the lot.
- E. Location:
- 1. An architectural improvement shall not be located in a recorded easement.
  - 2. An architectural improvement shall not infringe on sanitary or water systems and shall comply with all applicable Licking County Health Department and/or Ohio Environmental Protection Agency regulations.
- F. Commercial Use: No commercial use shall be permitted from an architectural improvement on a residentially zoned lot unless approved as part of a home occupation pursuant to Chapter 1267.
- G. Off-Site Impacts: An architectural improvement shall not adversely affect neighboring properties so as to result in its loss of value or interfere with its use or enjoyment.
- H. Materials: All architectural improvement materials shall be approved materials recognized by the Ohio Building Code.
- I. Maintenance: An architectural improvement shall be maintained in good repair at all times.