

# Contents

- PREAMBLE ..... 0**
- ARTICLE 1      GENERAL REGULATIONS ..... 1**
  - 101    TITLE .....1
  - 102    INTENT.....1
  - 103    INTERPRETATION.....1
  - 104    SEPARABILITY .....2
  - 105    REPEAL OF CONFLICTING ORDINANCES .....2
- ARTICLE 2      DEFINITIONS ..... 3**
  - 201    CONSTRUCTION OF LANGUAGE .....3
  - 202    DEFINITIONS .....3
  - 203    ILLUSTRATIONS/EXHIBITS.....29
- ARTICLE 3      ESTABLISHING DISTRICTS AND ZONING MAP ..... 39**
  - 301    INTENT.....39
  - 302    ESTABLISHMENT OF DISTRICTS .....39
  - 303    ZONING DISTRICT MAP .....39
  - 304    RULES FOR MAP INTERPRETATION .....39
  - 305    INTERPRETATION OF DISTRICT BOUNDARIES .....40
  - 306    ZONING UPON ANNEXATION .....41
- ARTICLE 4      DISTRICT REGULATIONS..... 42**
  - 401    COMPLIANCE WITH REGULATIONS .....42
  - 402    SUMMARY OF ZONING DISTRICT REQUIREMENTS .....43
  - 403    R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT .....44
  - 404    R-2 TWO-FAMILY RESIDENTIAL DISTRICT .....46
  - 405    R-3 MULTI-FAMILY RESIDENTIAL DISTRICT.....48
  - 406    NB- NEIGHBORHOOD BUSINESS DISTRICT .....50
  - 407    CB- CENTRAL BUSINESS DISTRICT.....51
  - 408    I1: I/NB- INDUSTRIAL/NEIGHBORHOOD BUSINESS DISTRICT .....52
  - 409    I2- INDUSTRIAL DISTRICT .....54
  - 410    HTO: HIGH-TECH OVERLAY DISTRICT .....56
  - 411    ZONING DISTRICT PERMITTED USE CHARTS .....58
  - 412    HEIGHT LIMITS .....61
- ARTICLE 5      SUPPLEMENTAL DISTRICT REGULATIONS ..... 62**
  - 501    INTENT.....62
  - 502    ACCESSORY USES .....62
  - 503    GARAGE SALE (INCLUDING A PATIO, BASEMENT, YARD OR BLOCK SALE) .....64
  - 504    RADIO AND TELEVISION ANTENNA REGULATIONS .....65
  - 505    BUFFER AND TRANSITION BETWEEN RESIDENTIAL/COMMERCIAL AND RESIDENTIAL/INDUSTRIAL ZONED PROPERTIES .....66
  - 506    PRINCIPAL BUILDING PER LOT.....67
  - 507    PARKING AND STORAGE OF VEHICLES AND TRAILERS .....67
  - 508    PARKING AND STORAGE OF VEHICLES, RECREATIONAL VEHICLES, WATERCRAFT, DIRT BIKES, MOTORIZED SPORT VEHICLES, TRAILERS, UTILITY TRAILERS, COMMERCIAL VEHICLES, ETC. ....67

509	REQUIRED REFUSE COLLECTION AREAS.....	68
510	FENCES .....	68
511	VISIBILITY AT INTERSECTIONS .....	69
512	REDUCTION OF AREA OR SPACE .....	69
513	TEMPORARY USES.....	69
514	SWIMMING POOLS/PONDS.....	70
515	HOME OCCUPATIONS .....	71
516	NUISANCE PERFORMANCE STANDARDS .....	72
517	ENVIRONMENTAL PERFORMANCE STANDARDS.....	73
518	RESIDENTIAL DESIGN AND APPEARANCE STANDARDS .....	74
519	ANIMALS .....	74
520	ADULT ENTERTAINMENT FACILITIES .....	74
521	AUTOMOBILE WASHING FACILITIES.....	78
522	JUNK .....	79
523	BILLBOARDS .....	79
524	LANDFILLS.....	80
525	TRANSFER STATIONS.....	82
526	COMPOSTING .....	84
527	MINERAL AND SOIL EXTRACTION.....	85
528	PONDS.....	88
529	FLOOD PLAIN CONTROLS .....	89
530	EROSION CONTROL REQUIREMENTS.....	90
531	PRIVATE BUSINESS OR FAMILY GATHERING FACILITY .....	90
532	SMALL WIND ENERGY PROJECT REGULATION .....	90
533	OUTDOOR WOODBURNING FURNACES.....	95
534	MANUFACTURED HOMES & MOBILE HOMES ON INDIVIDUAL PARCELS (LOTS).....	97
535	RECREATIONAL VEHICLES, WATERCRAFT, DIRT BIKES, MOTORIZED SPORT VEHICLES, AND UTILITY TRAILERS.....	97
536	BED AND BREAKFAST INNS .....	98
537	WIRELESS TELECOMMUNICATIONS FACILITIES .....	98
<b>ARTICLE 6      CONDITIONAL USES; SUBSTANTIALLY SIMILAR USES .....</b>		<b>108</b>
601	INTENT.....	108
602	CONTENTS OF CONDITIONAL USE PERMIT APPLICATION.....	108
603	GENERAL STANDARDS FOR ALL CONDITIONAL USES .....	108
604	ACTION BY THE BOARD OF ZONING APPEALS .....	109
605	ADDITIONAL CRITERIA .....	109
606	NOTICE TO PARTIES OF INTEREST.....	110
607	PROCEDURE AND REQUIREMENTS TO DETERMINE THAT A USE IS SUBSTANTIALLY SIMILAR .....	110
<b>ARTICLE 7      NONCONFORMITIES .....</b>		<b>112</b>
701	INTENT.....	112
702	USES UNDER CONDITIONAL USE PROVISIONS, NOT NONCONFORMING USES.....	112
703	INCOMPATIBILITY OF NONCONFORMITIES.....	112
704	AVOIDANCE OF UNDUE HARDSHIP.....	112
705	SUBSTITUTION OF NONCONFORMING USES.....	112
706	SINGLE NONCONFORMING LOTS OF RECORD .....	113
707	NONCONFORMING LOTS OF RECORD IN COMBINATION .....	113
708	NONCONFORMING USES OF LAND.....	114
709	NONCONFORMING STRUCTURES .....	114

710	NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION.....	115
711	TERMINATION OF NONCONFORMITIES.....	115
712	MOVING OF NONCONFORMITIES.....	116
713	REPAIRS AND MAINTENANCE.....	116
714	CHANGE OF NONCONFORMITIES.....	117
715	NONCONFORMING ACCESSORY USE.....	117
<b>ARTICLE 8</b>	<b>PLANNED UNIT DEVELOPEMEMTS (PUD).....</b>	<b>118</b>
801	INTENT.....	118
802	REQUIREMENTS.....	118
803	PERMITTED USES.....	118
804	PROCEDURE.....	118
805	PRELIMINARY DEVELOPMENT PLAN APPLICATION REQUIREMENTS.....	120
806	NOTICE OF PUBLIC HEARING IN NEWSPAPER.....	121
807	NOTICE TO PARTIES IN INTEREST.....	121
808	FINAL DEVELOPMENT PLAN APPLICATION REQUIREMENTS.....	122
809	SPECIAL PROVISIONS.....	123
810	ADDITIONAL REQUIREMENTS.....	125
811	RESIDENTIAL AND BUSINESS/COMMERCIAL PLANNED UNIT DEVELOPMENT MINIMUM DESIGN STANDARDS.....	125
812	MX-PUD MIXED USE PLANNED UNIT DEVELOPMENT DISTRICT.....	127
813	INDUSTRIAL PLANNED UNIT DEVELOPMENT MINIMUM DESIGN STANDARDS.....	130
814	EXPIRATION AND EXTENSION OF APPROVAL PERIOD.....	131
<b>ARTICLE 9</b>	<b>OFF STREET PARKING AND LOADING FACILITIES.....</b>	<b>132</b>
901	INTENT.....	132
902	GENERAL PARKING REQUIREMENTS.....	132
903	OFF-STREET PARKING DESIGN STANDARDS.....	132
904	DETERMINATION OF REQUIRED SPACES.....	134
905	JOINT OR COLLECTIVE PARKING FACILITIES.....	134
906	OFF-STREET STORAGE AREAS FOR DRIVE-IN SERVICES.....	135
907	PARKING OF DISABLED VEHICLES.....	135
908	PARKING SPACE REQUIREMENTS.....	135
909	HANDICAPPED PARKING.....	138
910	OFF-STREET LOADING SPACE REQUIREMENTS.....	139
911	OFF-STREET LOADING DESIGN STANDARDS.....	139
<b>ARTICLE 10</b>	<b>SIGNAGE.....</b>	<b>140</b>
1001	INTENT.....	140
1002	GOVERNMENTAL SIGNS EXCLUDED.....	140
1003	GENERAL REQUIREMENTS FOR ALL SIGNS AND DISTRICTS.....	140
1004	PERMIT REQUIRED.....	141
1005	SIGNS PERMITTED IN ALL DISTRICTS NOT REQUIRING A PERMIT.....	141
1006	TEMPORARY SIGNS.....	142
1007	POLITICAL SIGNS.....	142
1008	MEASUREMENT OF SIGN AREA.....	142
1009	BUSINESS SIGNS.....	142
1010	ATTACHED SIGNS PERTAINING TO NONCONFORMING USES.....	146
1011	SIGN SETBACK REQUIREMENTS.....	146
1012	MAINTENANCE.....	146

1013	NONCONFORMING SIGNS AND STRUCTURES .....	146
1014	LOSS OF LEGAL NONCONFORMING STATUS .....	146
1015	VIOLATIONS.....	147
1016	ABANDONED SIGNS.....	147
<b>ARTICLE 11</b>	<b>AMENDMENTS.....</b>	<b>148</b>
1101	INTENT .....	148
1102	INITIATION OF ZONING AMENDMENTS .....	148
1103	TEXT AMENDMENTS AND CHANGING OF ZONING DISTRICT .....	148
1104	CONTENTS OF APPLICATION FOR ZONING MAP AMENDMENT.....	148
1105	CONTENTS OF APPLICATION FOR ZONING TEXT AMENDMENT .....	149
1106	RECOMMENDATION BY PLANNING COMMISSION .....	149
1107	PUBLIC HEARING BY VILLAGE COUNCIL.....	149
1108	NOTICE OF PUBLIC HEARING IN NEWSPAPER .....	149
1109	NOTICE TO PROPERTY OWNERS BY VILLAGE COUNCIL .....	150
1110	ACTION BY VILLAGE COUNCIL .....	150
<b>ARTICLE 12</b>	<b>APPEALS AND VARIANCES .....</b>	<b>151</b>
1201	INTENT .....	151
1202	ADMINISTRATIVE APPEALS.....	151
1203	VARIANCES.....	151
1204	CONDITIONS FOR VARIANCE.....	152
1205	APPLICATION AND STANDARDS FOR VARIANCES .....	152
1206	ADDITIONAL CONDITIONS AND SAFEGUARDS.....	153
1207	PUBLIC HEARING BY THE BOARD OF ZONING APPEALS.....	153
1208	NOTICE OF PUBLIC HEARING IN NEWSPAPER .....	153
1209	NOTICE TO PARTIES IN INTEREST .....	153
1210	ACTION BY BOARD OF ZONING APPEALS.....	154
1211	TERM OF VARIANCE .....	154
1212	AUTHORIZED VARIANCES.....	154
<b>ARTICLE 13</b>	<b>ADMINISTRATION.....</b>	<b>155</b>
1301	INTENT .....	155
1302	GENERAL PROVISIONS.....	155
1303	ZONING INSPECTOR .....	155
1304	RESPONSIBILITIES OF ZONING INSPECTOR.....	155
1305	DUTIES OF THE PLANNING COMMISSION .....	156
1306	DUTIES OF THE BOARD OF ZONING APPEALS .....	156
1307	VILLAGE COUNCIL .....	157
1308	SCHEDULE OF FEES.....	157
<b>ARTICLE 14</b>	<b>ZONING PERMIT REQUIREMENTS AND ENFORCEMENT .....</b>	<b>158</b>
1401	INTENT .....	158
1402	RECOMMENDED CONTENTS OF APPLICATION FOR ZONING PERMITS .....	158
1403	SITE PLAN REQUIRED CONTENTS.....	158
1404	APPROVAL OF ZONING PERMIT.....	160
1405	FAILURE TO OBTAIN A ZONING PERMIT .....	160
1406	CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, AND PERMIT .....	160
1407	ENTRY AND INSPECTION OF PROPERTY .....	160

1408	STOP WORK ORDER .....	160
1409	ZONING PERMIT REVOCATION .....	160
1410	COMPLAINTS REGARDING VIOLATIONS .....	160
1411	NOTICE OF VIOLATION .....	161
1412	PENALTIES AND FINES .....	161
1413	ADDITIONAL REMEDIES .....	161

## PREAMBLE

AN ORDINANCE OF THE VILLAGE OF MT. ORAB, OHIO, ENACTED IN ACCORDANCE WITH A COMPREHENSIVE PLAN AND THE PROVISIONS OF THE OHIO REVISED CODE, DIVIDING THE VILLAGE INTO ZONES AND DISTRICTS, ENCOURAGING, REGULATING, AND RESTRICTING THEREIN THE LOCATION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, AND USE OF STRUCTURES AND LAND; PROMOTING THE ORDERLY DEVELOPMENT OF RESIDENTIAL, BUSINESS, COMMERCIAL, INDUSTRIAL, RECREATIONAL, AND PUBLIC AREAS; PROVIDING FOR ADEQUATE LIGHT, AIR, AND CONVENIENCE OF ACCESS TO PROPERTY BY REGULATING THE USE OF LAND AND BUILDINGS AND THE BULK OF STRUCTURES IN RELATIONSHIP TO SURROUNDING PROPERTIES; LIMITING CONGESTION IN THE PUBLIC RIGHT-OF-WAY; PROVIDING THE COMPATIBILITY OF DIFFERENT LAND USES AND THE MOST APPROPRIATE USE OF LAND; PROVIDING FOR THE ADMINISTRATION OF THIS ORDINANCE; DEFINING THE POWERS AND DUTIES OF THE ADMINISTRATIVE OFFICERS AS PROVIDED HEREAFTER; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS IN THIS ORDINANCE OR ANY AMENDMENT THERETO, ALL FOR THE PURPOSE OF PROTECTING THE PUBLIC HEALTH, SAFETY, COMFORT, AND GENERAL WELFARE.

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MT. ORAB, BROWN COUNTY, STATE OF OHIO, PURSUANT TO LAW:

## ARTICLE 1 GENERAL REGULATIONS

### 101 Title

This Ordinance shall be known and may be cited to as the “Zoning Code of the Village of Mt. Orab”, except as referred to herein, where it shall be known as “this Zoning Code”.

### 102 Intent

The intent of this Zoning Code is to promote and protect the public health, safety, and general welfare of the Village of Mt. Orab (“Village”), in accordance with a comprehensive plan for the desirable future development of the Village and planning process that is reflected in the contents of this Zoning Code and in the zoning map of the Village by:

- A. Dividing the Village into zones or districts within which specific regulations contained in this Zoning Code control the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, commerce, industry, or other specific uses.
- B. Regulating the intensity of land use through the control of the amount of lot area on which construction is authorized and a determination of the area of open space surrounding any man-made improvements upon the land.
- C. Facilitating the orderly, efficient, and appropriate growth and development within the Village.
- D. Protecting residential, business, commercial, and industrial land uses from encroachment by incompatible land uses that would not be conducive to the public health, safety, and general welfare.
- E. Regulating certain nonconforming uses of land, buildings, and structures.
- F. Promoting a pattern of rational land use relationships among residential, business, commercial, and industrial uses for the purposes of promoting the public health, safety, and general welfare.
- G. Establishing development densities by zoning district that economize the provision of water, sewer, streets and highways, fire and police protection, schools, parks, recreation facilities, and other government services.

The intent is to implement in accordance with the Comprehensive Land Use Plan for the Village of Mt. Orab as manifested in this Zoning Code and its companion zoning map, Village of Mt. Orab Design Criteria, and Construction Standards and Drawings of and in various planning studies which have been or will be approved by Council from time to time.

### 103 Interpretation

In their interpretation and application, the provisions of this Zoning Code shall be the minimum requirements adopted for the promotion of the public health, safety, convenience, order, prosperity, and general welfare. Except as otherwise provided in Section 105 Repeal of Conflicting Ordinances, it is not intended by this Zoning Code to repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law or ordinance, or with any rules, regulations, or permits previously adopted or issued pursuant to law, relating to the use of buildings and land. However, where this Zoning Code

imposes a greater restriction on the use of buildings or premises, or on the heights of buildings, or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations, or permits, the provisions of this Zoning Code shall prevail and control.

#### **104 Separability**

Should any section or provision of this Zoning Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

#### **105 Repeal of Conflicting Ordinances**

All Ordinances in conflict with this Zoning Code or inconsistent with the provisions of this Zoning Code are hereby repealed to the extent necessary to give this Zoning Code full force and effect.



## ARTICLE 2 DEFINITIONS

### 201 Construction of Language

For the purposes of this Zoning Code, certain terms or words used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- B. The present tense includes the future tense.
- C. The singular number includes the plural, and the plural number includes the singular.
- D. The word "shall" is mandatory, and the word "may" is permissive.
- E. The word "building" includes the word "structure" and the word "dwelling" includes the word "residence".
- F. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- G. The word "lot" includes the words "plot" or "parcel."
- H. In case of any difference of meaning or implication between the text of this Zoning Code and any caption or illustration, the text shall control.
- I. Regardless of capitalization, definitions are standard.

Terms not herein defined shall have the meaning customarily assigned to them.

### 202 Definitions

#### **ACCESSORY USE**

An object or structure constructed or installed on, above, or below the surface of a parcel, which is located on the same lot as a principal use, object or structure, and which is subordinate to or serves the principal use, object or structure, is subordinate in the area to the principal use, object or structure, and is customarily incidental to the principal object or structure. Among other things, "accessory structure" includes anything of a subordinate nature attached to or not attached to a principal structure or use, such as, fences, satellite dishes, antennas, walls, sheds, pole barns, solar panel structures, detached garages, parking places, decks, poles, power panels, patios, driveways, and carports if not attached, trampolines, children's swing sets/playsets, and billboards. Except as otherwise required in this Zoning Code an "accessory structure" shall be a permitted use.

#### **ACCESSORY BUILDING OR STRUCTURE**

A structure occupied by a use which is subordinate, secondary, incidental to and customary in connection with the principal building or principal use and located on the same lot as the principal building or principal use. Residential accessory structures include detached garages, tool and garden sheds, and similar facilities.

#### **ADULT ENTERTAINMENT FACILITIES**

A facility used for the purpose of adult entertainment as described in Section 520 Adult Entertainment Facilities.

**AGRICULTURAL**

The use of a tract of land for the planting, harvesting, and marketing of crops and produce; the breeding, feeding, and marketing of livestock; horticulture; floriculture; poultry, or honeybees for personal use only; forestry, nurseries, or orchards; for the non-commercial, on-farm storage of any other similar agricultural; structures necessary for performing these operations; and residence of the owner or operator. Such agricultural use shall not include the following uses:

- A. The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted.
- B. Wholesale or retail sales as accessory use, unless the same are specifically permitted by this Resolution.
- C. The feeding or sheltering of animal livestock or poultry in penned enclosures within one hundred (100) feet of any Residential Zoning District. Agriculture does not include the feeding of garbage to animals, or the operation or maintenance of a commercial stockyard or feed yard.

**ALLEY**

(See Thoroughfare)

**ALTERATION**

Any change, addition, or modification in construction use or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams, or girders.

**ANIMAL GROOMING**

An activity where the principal business is domestic pet hygiene including washing, brushing, shearing, and nail cutting.

**ANIMAL HOSPITAL OR CLINIC**

A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention and may include overnight accommodation on the premises for the treatment, observation, and/or recuperation. It may also include boarding that is incidental to the primary activity.

**ANIMAL LIVESTOCK**

Animals kept or raised on farms such as cattle, horses, pigs, goats, or sheep for personal use only.

**APARTMENT**

Two or more rooms, designed for, arranged for, intended for, or occupied as a residence by one family.

**APARTMENT HOUSE**

Any building housing three or more apartment units providing said units are the principal use of the building.

### **AUTOMOBILE REPAIR, PAINTING, AND BODY SHOPS**

Places where the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame, or fender straightening and repair, and overall painting, undercoating, rust protection, paint protection, and fabric protection of automobiles.

### **AUTOMOBILE SALES**

The display, sale, or rental of new or used motor vehicles or trailers in operable condition where no repair work is done.

### **AUTOMOBILE SERVICE STATION**

A place where gasoline, or any other automobile engine fuel, stored only in underground tanks, kerosene or motor oil, and lubricants or grease, for operation of motor vehicles, are retailed directly to the public on the premises, including the sale of minor accessories and the servicing of and minor repair of automobiles, the incidental washing of motor vehicles and the performing of tune-ups, tire and break changing and repair not including storage of inoperable vehicles.

### **AUTOMOBILE WASHING FACILITIES**

Area of land and/or a structure with machine or hand-operated facilities used principally for cleaning, washing, polishing, or waxing of automobiles.

### **BARS, TAVERNS, AND NIGHTCLUBS**

Establishments primarily engaged in the retail sale of drinks, such as beer, ale, wine, liquor, and other alcoholic beverages for consumption on the premises. The sale of food may also be a part of the operation.

### **BASEMENT**

A story all or partly underground but having at least one-half of its clear floor to ceiling height below the average elevation of the adjoining ground. (See "Story") (See Illustration, Exhibit "C" following this Section.)

### **BED AND BREAKFAST INNS**

A residential, single-family dwelling or portion thereof, which is owner-occupied, that has as a secondary use of the structure, one to five guestrooms for rent. Guests shall not stay longer than 14 consecutive days. Breakfast shall be the only meal served and the kitchen shall not be remodeled into a commercial kitchen. The facility shall be located in an existing structure and a structure cannot be built for this purpose. The operator of the Inn shall live on the premises.

### **BEGINNING OF CONSTRUCTION**

"Beginning of Construction" means the utilization of labor, equipment, and materials for the purpose of erecting or altering a structure.

**BILLBOARD**

A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than on the lot where displayed on only incidentally on such lot.

**BLOCK**

Property abutting one side of a street and lying between the two nearest intersecting streets, crossing or terminating, or between the nearest street and railroad right-of-way, un-subdivided acreage, waterway, or between any of the foregoing and any other barrier to the continuity of development or corporate lines of the Village.

**BOARD OF ZONING APPEALS (BZA)**

Village of Mt. Orab Board of Zoning Appeals hereinafter referred to as "BZA".

**BOARDING OR LODGING HOUSES**

A building other than a hotel, not exceeding ten sleeping rooms, where, for compensation and by prearrangement for definite periods, meals or lodging and meals, are provided, including a Bed and Breakfast Inn.

**BUILDING**

A building is a structure, designed, intended, or used for shelter, enclosure, or protection of persons, animals, chattels, or property.

**BUILDING HEIGHT**

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof surface.

**BUILDING LINE**

(See Setback Line)

**BUILDING LOT**

Any platted lot, a legally described parcel of land, or combination of adjacent platted lots or other described land that is identified on a deed as being owned by the same owner and is large enough for the construction of a residence. It may also be any combination of adjacent land deeded separately but shown on the county's tax maps as owned by the same owner.

**BUILDING; PRINCIPAL**

A building in which conducted is the main or principal use of the lot on which such building is situated. Where a substantial part of the wall of an accessory building is a part of the wall of the principal building, or where an accessory building is attached to the main building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

### **BUILDING AND RELATED TRADES**

A building or premises used for the storage and retail sale of those materials and services customary to the construction profession of which offices of those professionals associated with the construction profession may be an accessory use.

### **BUILDING AND ZONING PERMIT**

A permit issued by the Zoning Administrator for the construction or alteration of any building or structure. Brown County issues permits for 1, 2 and 3 family residential units and Clermont County Permit Central issues permits for all other structures.

### **BUILDING SERVICES AND SUPPLIES**

Building supplies and services facilities, including facilities for plumbing and heating equipment, sheet metal shops, and similar uses.

### **BUSINESS, PROFESSIONAL, AND ADMINISTRATIVE OFFICES**

Uses that include, but are not limited to, corporate offices; insurance; real estate; law; engineering; architecture; management and consulting; accounting; bookkeeping and investment; data processing services; advertising, commercial art and public relations; news syndicates; travel agencies; personnel and employment services; and detective and protective services.

### **CAMPING AND RECREATIONAL EQUIPMENT**

For the purpose of this Regulation, camping and recreational equipment shall include the following:

- A. Boat and Boat Trailer-Boat and boat trailer shall include boats, jet skis, floats, and rafts, plus the normal equipment to transport the same on the highway.
- B. Folding Tent Trailer-A canvas folding structure, mounted on wheels and designed for travel and vacation uses.
- C. Motorized Home-A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- D. Pick-Up Camper-A structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it suitable for use for travel, recreational, or vacation uses.
- E. Travel Trailer-A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.

### **CAR WASH**

(See Automobile Washing Facilities)

### **CARRY-OUT**

A place of business offering food and beverages, which may include liquor, beer, wine, if licensed by the State of Ohio, where the food and beverages are dispensed at the counter purchased for consumption within the building on or off the premises. These can include photo kiosks and freestanding automatic teller machines, but do not include drive-in windows.

**CELLAR**

(See Basement)

**CEMETERY**

Land used or intended to be used for the disposition of deceased persons and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery. Cemeteries may be allowed by a Conditional Use Permit.

**CHANNEL**

A natural or artificial watercourse of perceptible extent with bed and banks to confine and conduct continuously or periodically flowing water.

**CLINIC**

(See Medical Offices and Clinics)

**CLUB**

A building or portion thereof or premises owned or operated by a person for a social, literary, political, educational, fraternal or recreational purpose primarily for the exclusive use of members and their guests.

**COMMERCIAL ENTERTAINMENT FACILITIES**

Any profit-making activity which is generally related to the entertainment field. These facilities include motion picture theaters; drive-in theaters, amusement parks, carnivals, fairgrounds, golf driving ranges, golf courses, miniature golf courses, racetracks, skating rinks, sports arenas; tennis, racquetball, and handball courts; health clubs; bowling alleys; and similar entertainment activities.

**COMMERCIAL RECREATION FACILITIES**

Any activity involving the public in participatory activities for exercise and/or entertainment. These facilities including skating rinks; tennis, racquetball, and handball courts; shooting sports; and health clubs are operated for profit as distinguished from public recreation facilities.

**COMMERCIAL VEHICLES**

Commercial Motor Vehicle (CMV): any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when: 1) The vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; 2) The vehicle is designed to transport more than 15 passengers, including the driver; or 3) The vehicle is used in the transportation of hazardous materials in a quantity required placarding under regulations issued by the Secretary of Transportation under the Hazardous Materials Transportation Act (49 USC App. 1801813) (49 CFR 390)

**COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITY**

A state licensed or authorized home for children or adults that is operated by the state or a political subdivision or pursuant to a license issued by or to a contract with the state or a political subdivision. Community-oriented residential social service facilities include the following categories: agency group homes for children or adults, residential homes for children or adults, or residential homes for children or adolescents 18 years of age or under, dependent or neglected, who have not been adjudged delinquent, and who for various reasons cannot reside with their natural family.

**COMPREHENSIVE LAND USE PLAN**

A plan, which may consist of several maps, data, policies, and other descriptive matter, for the physical development of the Village which has been adopted by the Village to indicate the general location for proposed physical facilities including housing, industrial, and business uses, major streets, parks, schools, public sites, and other similar information.

**CONDITIONAL USE**

A use that is permitted, but only by application to the BZA in each specific instance, and after determination by the BZA that all regulations and standards of this Zoning Code applying to the specific use in the particular location will be met, along with such additional conditions or safeguards as the BZA may prescribe in the specific case and circumstances, in order to prevent harm or injury to adjacent uses and the neighborhood, and/or in order to improve the public health, safety, morals, convenience, order, prosperity, and general welfare.

**CONDOMINIUM**

A building or group of buildings in which units are individually owned, but the structure, common areas, and facilities are owned on a proportional, undivided basis by all of the owners.

**CONSTRUCTION TRADES AND CONTRACTOR OFFICES AND SHOPS**

These activities include heavy construction, building, electrical, heating and air conditioning, masonry, plumbing, painting and wallpapering, roofing, glazing, but does not include salvage materials or debris.

**CONVENIENCE STORE**

Retail stores that cater to the motoring public where the sale of food items such as hot or cold drinks, prepackaged foods and tobacco, roadmaps, magazines and other publications; automotive maintenance items such as brake fluid, oil, polishes, anti-freeze, and similar products; and other retail items that may be readily purchased. A convenience store may also sell gasoline. This does not include drive-in or drive-through windows.

**CORNER LOT**

(See Lot)

**COVERAGE**

The percentage of the lot area which is covered by any building or part thereof.

**DAY CARE CENTER; COMMERCIAL OR PROFESSIONAL**

(Child Day Care Center)

Any place in which child day care is provided, with or without compensation, for 13 or more children at any one time; or any place that is not the permanent residence of the licensee or administrator in which child day care is provided, with or without compensation, for at least 7 to 12 children at any one time. In counting children for the purposes of this definition, any children under 6 years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted. ORC 5104.01

**DAYS**

Calendar days unless stated otherwise.

## **DECKS**

Roofed or not, should be part of the main structure when they are attached, or adjoin without attachment to the main structure; and whether or not they are roofed, would be required to conform to setbacks in their respective district.

## **DENSITY**

A unit of measurement; the number of dwelling units per acre of land.

- A. Gross Density - the number of dwelling units per acre of the total land to be developed.
- B. Net Density – the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

## **DEVELOPMENT STANDARDS**

Standards controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Development standards include regulations controlling maximum height, minimum lot area, minimum lot frontage, and minimum size of yards and setbacks.

## **DISTRICT**

A portion of the incorporated area of the Village within which certain regulations and requirements or various combinations thereof apply under the provisions of this Zoning Code.

## **DRIVE-IN COMMERCIAL USES**

A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, or within a building or structure on the same premises and devoted to the same purpose as the "drive-in" service.

## **DWELLING UNIT**

Any building or structure which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants, but not include a tent, cabin, trailer or trailer coach or other temporary or transient structure or facility.

## **DWELLING; MULTI-FAMILY**

A dwelling consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls.

## **DWELLING, REAR**

A building designed for or used as the residence or sleeping place of one or more persons. Sometimes referred to as the "mother-in-law" suite, a building in the rear yard of a principal use building that is smaller than the principal use building.

## **DWELLING; SINGLE-FAMILY**

A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space, including permanently-sited manufactured homes as defined herein.



**DWELLING; TWO-FAMILY**

A dwelling consisting of two dwelling units or housekeeping units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

**EASEMENT**

Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**EDUCATIONAL INSTITUTIONS, ELEMENTARY, JUNIOR HIGH, AND HIGH SCHOOLS**

Public, private, and/or religious schools including grades K through 12.

**ELDERLY HOUSING FACILITIES**

Residential developments specially designed to house retired and elderly persons, and which may include a mixture of living options including apartments, group quarters, and nursing care facilities.

**ERECTED**

Includes the terms built or constructed, altered, or reconstructed. "Erected" also includes moving of a building or structure onto a lot or any physical operations on the premises which are required for construction. Excavation, fill drainage, and the like shall be considered an operation of erection.

**ESSENTIAL SERVICES**

The erection, construction, alteration, or maintenance, by public utilities or Mt. Orab or other governmental agencies, of underground gas, electrical, water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, or other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate services by such public utilities or Mt. Orab or other governmental agencies or for the public health, safety, or general welfare, but not including buildings.

**FACTORY-BUILT HOUSING**

A factory-built structure designed for long-term residential use, the components of which are essentially constructed or assembled prior to its delivery to and installation upon a site. For the purposes of this Zoning Code, "factory-built housing" shall include the following:

- A. Manufactured Home - Any vehicle not self-propelled transportable in one or more sections which, in the traveling mode, is 8 feet or more in width or 40 feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, and which bears a label certifying that it is built in compliance with Federal Manufactured Housing Construction and Safety Standards. Manufactured Home is sometimes referred to as a Mobile Home.
- B. Modular Home - Factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes, including permanent foundations.

**FARM**

(See Agricultural)

**FAMILY**

A person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a boarding or lodging house, or a hotel, provided, however, that "family" shall not include more than four persons unrelated to each other by blood, marriage, or legal adoption.

**FEEDLOT**

An area used for fattening or temporarily holding livestock for shipment, sale, or slaughter.

**FENCE**

Any structure, other than part of a building, of sufficient strength and dimension to prevent straying from within or intrusion from without.

**FILLING STATION**

(See Automobile Service Station)

**FINANCIAL ESTABLISHMENTS**

These facilities include banks, savings and loan associations, credit unions, finance companies, loan offices, and safe deposit companies.

**FLOOD, REGIONAL**

Large floods which have previously occurred, or which may be expected to occur on a particular stream because of like physical characteristics. The regional flood generally has an average frequency of the 100-year flood.

**FLOODPLAIN**

That land, including the flood fringe and the floodway, subject to inundation by the regional flood.

**FLOODWAY**

That portion of the floodplain, including the channel, which is reasonably required to convey the regional floodwaters. Floods of less frequent recurrence are usually contained completely within the floodway.

**FLOODWAY FRINGE**

That portion of the floodplain, excluding the floodway, where development may be allowed under certain restrictions.

**FLOOR AREA OF A NON-RESIDENTIAL BUILDING**

(To be used in Calculating Parking Requirements)

The floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, fitting rooms, and similar areas. All dimensions shall be measured between exterior faces of walls.

**FLOOR AREA OF A RESIDENTIAL BUILDING**

The sum of the gross horizontal area of all floors of a residential building, excluding garages, basement floor areas, roofed porches, and roofed terraces. All dimensions shall be measured between exterior faces of walls.

**FRATERNAL AND SOCIAL ASSOCIATION FACILITY**

A meeting place for people formally organized for a common interest, usually public service, cultural, religious, or entertainment and where food and alcohol may be served.

**FRONT LOT LINE**

(See Lot)

**FRONT YARD**

(See Yard)

**FUNERAL HOME**

A building or part thereof used for human funeral services. Such building may contain space and facilities for embalming and the performance of other services used in preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel and residency shall also be permitted.

**GARAGE; PRIVATE**

An accessory building or portion of a main building designed or used solely for the storage of motor driven vehicles, boats, and similar vehicles owned or used by the occupants of the building to which it is an accessory.

**GARAGE; PUBLIC**

A building or portion thereof, other than a private garage or filling station used for equipping, servicing, repairing, hiring, selling or storing vehicles, or similar equipment.

**GARDEN CENTER**

(See Nurseries and Garden Supplies Stores)

**GAS STATION**

(See Automobile Service Station)

**GENERAL MERCHANDISE STORES**

These facilities include department, variety, discount, home furnishing, grocery, retail sales, and drug stores.

**GRAIN ELEVATORS AND FEED MILLS**

A building structure, or premises used for the storage and retail sales of grain and other related agricultural supplies and products.

**GREENBELT**

A strip of land parallel to, and extending inwardly from, the lot lines or right-of-way lines. Said greenbelt shall be maintained at all times in grass, trees, shrubs or planting, and no structures, parking areas or signs shall be permitted.

**GREENHOUSE-HOTHOUSE-NURSERY**

A sun or artificially heated structure in which to grow, or the growing of plants, flowers, or vegetables or a form of agriculture whose chief function is the field growing of plants, shrubs and trees.

**GROUP HOME**

A residential care facility licensed or authorized by the State of Ohio or under contract to the State or political subdivision which provides room and board, personal care and supervision for not more than eight (8) developmentally disabled, blind, deaf, mute, neurologically handicapped, or physically handicapped persons.

**HALFWAY HOUSE**

A facility for the housing, rehabilitation, and training of persons on probation, parole, or early release from correctional institutions, or other persons found guilty of criminal offenses.

**HEAVY EQUIPMENT RENTAL, SALES, SERVICE, AND STORAGE**

These facilities include rental, sales, service, and storage of semi-tractor trailers, agricultural equipment, and construction equipment.

**HOME OCCUPATIONS**

An accessory use which is an activity, profession, occupation, service, craft, or revenue-enhancing hobby which is clearly incidental and subordinate to the use of the premises as a dwelling, and is conducted entirely within the dwelling unit, or elsewhere on the premises by a Conditional Use Permit, without any significant adverse effect upon the surrounding neighborhood. Activities such as teaching, tutoring, babysitting, tax consulting, and the like shall involve not more than three receivers of such services at any one time.

**HOTEL**

A building occupied as the temporary abode of individuals who are lodged with or without meals in which there are ten or more sleeping rooms, and which shall have no provision made for cooking in any individual room or apartment. A "hotel" may include a restaurant or cocktail lounge, public banquet halls, ballrooms, meeting rooms, or other commercial uses.

**HOUSEHOLD ITEMS REPAIR SHOP**

Repair of items normally found in the household including, but not limited to, shoes, watches, clocks, jewelry, appliances, and similar items.

**INDUSTRIAL; ENCLOSED**

Any industrial use conducted entirely within an enclosed building of any size for the manufacturing, fabricating, processing, heavy repair, servicing, or storing of motor vehicles, equipment, raw materials, or manufactured products provided that all such uses comply with the nuisance performance standards as set forth in the International Property Maintenance Code (IPMC).

**INDUSTRIAL; OPEN**

Any industrial use which requires both building and open area for the manufacturing, fabricating, processing, heavy repair, servicing or storing of motor vehicles, equipment, raw materials, or manufactured products provided that all such uses comply with the nuisance performance standards as set forth in International Property Maintenance Code (IPMC).

## **INTERIOR LOT LINE**

Any lot line shown by plat or deed of separately described parcels of land making up a building lot and located within its boundaries.

## **JUNK**

“Junk” includes but is not limited to: old scrap copper, brass, rope, rags, trash, or waste; old and used building materials, batteries, paper, or rubber; junked, dismantled, or wrecked automobiles, or parts thereof; old or discarded household furniture or appliances; iron, steel, and other old or scrap ferrous or non-ferrous materials. scrap wood materials (excluding stacked firewood) which are not held for sale or plastic re-melting purposes by an establishment having facilities for processing such materials.

## **JUNK MOTOR VEHICLES**

Any vehicle shall be deemed a junk motor vehicle if it is an unlicensed vehicle.

## **JUNK YARD OR SALVAGE YARD**

An open area where waste, used or second-hand materials are bought and sold, exchanged, stored, baled, packaged, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings. Two or more inoperative or unlicensed vehicles shall be construed to be a “junk yard”.

## **KENNELS**

Any lot or premises used for the sale, boarding, or breeding of dogs, cats, or other household pets. “Kennel” shall also mean the keeping on or in any lot or building three or more dogs, cats, or other household pets, which are over the age of 6 months.

## **LANDSCAPING**

The improvement of open areas by the planting and maintenance of trees, bushes, flower gardens, grass and other vegetation.

## **LAND USE PLAN**

The long-range plan for the desirable use of land as adopted by the Planning Commission; the purpose of such plan being to serve as a guide in future development and zoning of the community.

## **LIBRARIES**

A public or private repository for literary and artistic materials, such as books, periodicals, newspapers, pamphlets, and prints, kept for reading or reference.

## **LIVABILITY SPACE**

Part of the open space as found in planned developments which includes all land not covered by roof or devoted to streets, easements of access and parking.

## **LIVING SPACE**

The climate-controlled area within a Dwelling used for living, sleeping, eating, or cooking purposes in a house, apartment, condo, etc. and excluding such areas as closets, garages, attics, and utility spaces. Typical rooms included in the living space are living rooms, bedrooms, children's rooms, an office or a study, bathroom, separate toilet, kitchen, and dining room.

## **LOADING SPACE**

A loading space is an off-street space on the same lot with a building or group of buildings, used for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

## **LOT**

For the purposes of this Zoning Code, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- A. A single lot of record.
- B. A portion of lot of record.
- C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

## **LOT COVERAGE**

The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures including swimming pools/ponds, accessory uses/accessory building, or any part thereof, excluding projecting roof eaves.

## **LOT FRONTAGE**

The distance between the side lot lines, measured by a line drawn parallel with the front lot line at a point of required minimum front yard depth.

## **LOT LINE**

(See Illustration, Exhibit "B" following this Section.)

- A. Front - A street right-of-way line forming the boundary of a lot. On a corner lot, both street right-of-way lines shall serve as front lot lines.
- B. Rear - The lot line that is most distant from, and is or is most nearly parallel to, the front lot line. If a rear lot line is less than 15 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least 15 feet long, lying wholly within the lot, parallel to the front lot line. On a corner lot, the rear lot line shall be that lot line most distant from, and most nearly parallel to, the front wall of the principal building located thereon.
- C. Side - A lot line which is neither a front lot line nor a rear lot line.

## **LOT MEASUREMENTS**

A lot shall be measured as follows:

- A. Depth - The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- B. Width - The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the front building setback line.

## **LOT; MINIMUM AREA OF**

The total horizontal area within the lot lines of a lot which is computed exclusive of any portion of the right-of-way of any public or private street.

## **LOT OF RECORD**

A lot which is part of a subdivision recorded in the office of the Brown County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

## **LOT TYPES**

Terminology used in this Zoning Code with reference to corner lots, interior lots, and through lots is as follows:

- A. Corner Lot - A lot located at the intersection of two or more streets or upon two (2) parts of the same street, and in either case forming an interior angle of one hundred thirty-five (135) degrees or less. (See Illustration, Exhibit "B" following this Section.)
- B. Interior Lot - A lot with only one front yard on a street. (See Illustration, Exhibit "B" following this Section.)
- C. Through Lot - A lot other than a corner lot with a front yard on more than one non-intersecting street. Through lots abutting two streets may be referred to as double frontage lots. (See Illustration, Exhibit "B" following this Section.)

## **LUMBER YARDS AND BUILDING MATERIALS SALE AND STORAGE**

Buildings or premises used for the storage and sale of lumber and building materials.

## **MANUFACTURED HOME**

(See Factory-Built Housing)

## **MANUFACTURED HOME COURT**

Any plot of ground upon which two or more trailer coaches or Manufactured Homes occupied for dwelling or sleeping purposes may be located. Only permitted where they presently exist.

## **MANUFACTURING**

The mechanical, chemical, or biological transformation or assembly of materials, substances, or component parts into new products or components, usually for distribution to wholesale markets, or for interplant transfer to industrial users.

## **MEDICAL OFFICES AND CLINICS**

Offices of physicians, dentists, and other health practitioners and medical and dental laboratories. Establishments primarily engaged in outpatient care with permanent facilities and with medical staff to provide diagnosis and/or treatment for patients who are ambulatory and do not require in-patient care.

## **MEMBERSHIP SPORTS AND RECREATION USES**

Country clubs and neighborhood swim clubs, but not including health spas, fraternal associations, or commercial recreation facilities as specified elsewhere.

## **MINERAL EXTRACTION, STORAGE, AND PROCESSING**

Any mining, quarrying, or processing of limestone, shale, clay, sand, gravel, coal, or other mineral resources.

## **MINI-WAREHOUSE**

(See Self-Service Storage Facility)

**MIXED USE**

A combination of two or more principally permitted or conditionally permitted uses within a district, as approved by the Board of Appeals, in the same building or on the same premises.

**MOBILE HOME COURT**

Any plot of ground upon which two or more trailer coaches or mobile homes occupied for dwelling or sleeping purposes may be located. (Not permitted in the Village)

**MOBILE HOME**

(See Factory-Built Housing)

**MOTEL**

(See Hotel)

**MULTI-FAMILY DWELLING**

(See Dwelling: Multi-Family)

**NEIGHBORHOOD BUSINESSES**

These facilities include barber and beauty shops, pharmacies, grocery stores, bakeries, specialty food stores, laundry and dry-cleaning pick-up service, self-service washing and dry-cleaning facilities, florists, and bait and tackle shops. Neighborhood Businesses may be permitted only in the R-1, R-2, and R-3 Residential Districts upon issuance of a special use permit.

**NIGHTCLUB**

(See Bars, Taverns, and Nightclubs)

**NONCONFORMITIES**

Lots, uses of land, structures, and uses of structures and land in combination lawfully existing at the time of enactment of this Zoning Code or its amendments which do not conform to the regulations of the district or zone in which they are situated and are therefore incompatible.

**NURSERIES AND GARDEN SUPPLIES STORES**

A space, including accessory building or structure, for the growing and storage of live trees, shrubs, or plant materials offered for retail sale on the premises, including products, equipment and supplies used for gardening or landscaping.

**NURSERY**

(See Child Day Care Center)

**NURSING HOME, REST HOME, OR CONVALESCENT HOME**

An establishment which specializes in providing necessary health and related services to those unable to care for themselves.

**OCCUPIED**

Includes the words “designed” or “intended to be occupied”.



**OFF-STREET PARKING**

The provision of parking facilities for a specified use, to be provided on the same lot or lots as the use they are intended to serve, and not on any public street or public right-of-way.

**OPEN SPACE**

That part of a lot, including courts or yards, which is open and unobstructed by structures from its lowest level to the sky, accessible to all tenants upon the lot and shall not be used for storage or parking.

**OPEN STORAGE**

Storing or keeping of chattels not fully enclosed in a building.

**PARKING LOT**

An area providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than five vehicles.

**PARKING SPACE; OFF-STREET**

For the purpose of this Zoning Code, an off-street parking space shall consist of an area adequate for parking a passenger vehicle with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room but shall be located totally outside of any street or alley right-of-way.

**PATIOS**

If constructed as slabs on the ground and not structures, they do not need to conform to setbacks. However, if a roof is constructed over a patio, the roof STRUCTURE must conform to setbacks, because it is attached to building.

Any roof over a porch or deck constructed after the porch or deck should also be required to obtain a new permit.

**PERMITTED USE**

A use which is permitted outright in a district for which a zoning certificate shall be issued by the Zoning Inspector provided that the applicant meets the applicable requirements of the Ordinance.

**PERSON**

Includes a corporation as well as an individual.

**PERSONAL SERVICES**

Services of a personal nature including beauty and barber shops; individual laundry and dry-cleaning establishments; laundromats; photo studios and photofinishing; shoe repair; tailoring; watch, clock, and jewelry repair; clothing rental; and other services performed for persons or their apparel.

**PET SHOPS**

Any building or structure used for the sale, other than casual sale, of domestic pets and pet supplies.

**PLACES OF WORSHIP**

Establishments of recognized religious organizations operated for worship or for promotion of religious activities.

## **PLANNED UNIT DEVELOPMENT (PUD)**

Land under unified control, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots, or building sites, site plans, and design principles for all buildings intended to be located, constructed, used, and related to each other, and for other uses and improvements on the land as related to buildings. Development may be a single operation or a definitely programmed series of development operations including all lands and buildings, with a program for provision, operation, and maintenance of the areas, improvements, and facilities necessary for common use by the occupants of the development. (See Article 8 Planned Unit Developments.)

## **PLANNING COMMISSION**

The Village of Mt. Orab Planning Commission as established by ORC Chapter 713.01.

## **POOL; SWIMMING**

(See Swimming Pool)

## **PORCHES**

Roofed or not, should be part of the main structure when they are attached, or adjoin without attachment to the main structure; and whether or not they are roofed, would be required to conform to setbacks in their respective district.

## **PREEXISTING USE**

An existing use of the type listed as a special use in the zoning district that was lawfully established on the effective date of this Zoning Code.

## **PRINCIPAL USE**

The primary or predominant use of any land or improvement on it.

## **PRIVATE BUSINESS OR FAMILY GATHERING FACILITY**

A private facility, which is owner occupied, that has a secondary use of the structure as a private rental facility for family gatherings, business functions, and community events. The facility shall be located in and outside of the existing structure and a structure cannot be built for this purpose. The operator of the facility shall live on the property.

## **PRIVATE CLUBS**

An association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals, and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable federal, state, county, and local laws.

## **PRIVATE LANDING STRIPS AND HELIPORTS**

A site built to the current FAA recommendations where aircraft arrive and depart.

**PRIVATE SCHOOLS**

Private schools, including but not limited to, business or commercial schools, dance or music academies, kindergarten, nursery, play, and special schools other than educational facilities.

**PROFESSIONAL OFFICES**

(See Business, Professional, and Administrative Offices)

**PUBLIC OFFICES AND PUBLIC BUILDINGS**

Establishments for/housing activities of local, county, regional, state, or federal government agencies, but not including public service garages.

**PUBLIC RECREATION FACILITIES**

Parks, playgrounds, golf courses, sports arenas, gymnasiums, community centers, swimming pools, skating rinks, tennis, racquetball and handball courts, senior citizen and youth centers, arboretums, hiking and jogging trails, ice skating rinks, nature areas, picnic areas, tot lots, and arid wildlife sanctuaries, but not including commercial recreation and entertainment facilities listed elsewhere in this Zoning Code.

**PUBLIC SERVICE FACILITY**

The erection, construction, alteration, operation, or maintenance of buildings and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water and sewage disposal services.

**PUBLIC SERVICE YARDS AND GARAGE**

Premises used for the storage, service, and repair of publicly owned vehicle fleets.

**PUBLIC UTILITIES**

Publicly owned or leased buildings, public utility buildings, telephone exchanges, and transformer stations.

**PUBLIC WAY**

An alley, bridge, channel, ditch, easement, expressway, freeway, highway, land, road, sidewalk, street walk, bicycle path, or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

**REAR LOT LINE**

(See Lot Line)

**REAR YARD**

(See Yard)

**RECONSTRUCTED**

Any change, addition, or modification in construction, use or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams, or girders; the consummated act of which may be referred to herein as "altered".

**RECREATION SPACE**

(Countable) All area, open or enclosed, available for the general use of the residents of a planned residential district for active or passive recreation. Recreation space shall be provided in locations easily accessible to the living units. Such space may be a part of the required livability space.

**RECREATION VEHICLE**

Includes travel trailers, campers, unlicensed golf carts, motor home, camp car, truck campers, boats, personnel watercraft, four wheelers, dirt bikes, snow mobiles, Jet Ski, and their respective trailers.

**REGIONAL PLANNING COMMISSION**

Brown County Planning Commission Sometimes referred to as County Planning Commission

**RELIGIOUS PLACES OF WORSHIP**

An institution that a congregation of people regularly attend to participate in or hold religious services, meetings, and other activities, including buildings in which the religious services of any denominations are held.

**RESTAURANT; FAST FOOD**

An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption within the restaurant building, with a motor vehicle parked on the premises, or off the premises, as a carry-out order; and whose principal method of operation includes the following characteristics: food and/or beverages which are usually served in edible containers or in paper, plastic, or other disposable containers.

**RESTAURANT; STANDARD**

An establishment whose primary business is serving food and beverages to patrons for consumption inside the building.

**RETAIL BUSINESS**

Any business selling goods, wares, or merchandise directly to the ultimate consumer for direct consumption and not for resale.

**RIGHT-OF-WAY**

A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

**ROADSIDE STAND**

A temporary structure designed or used for the display or sale of agricultural products produced on the premises upon which a stand is located.

**ROOM, HABITABLE**

A room occupied, or designed to be occupied, by one or more persons for living, sleeping, eating, or cooking, including kitchens serving a dwelling unit; but not including bathrooms, toilet compartments, laundries, pantries, cellars, attics for storage and other similar spaces.

## **ROOMING HOUSE**

A building or part thereof, other than a hotel, motel, or restaurant where meals and/or lodging are provided for compensation, for three (3) or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

## **SATELLITE SIGNAL RECEIVER**

Dish-type Satellite Signal-Receiving Antennas, earth stations or ground stations, whether functioning as part of a basic service system, direct broadcast satellite system, or multi-point distribution service system, shall mean one, or a combination of two or more of the following:

- A. A signal-receiving device such as a dish antenna whose purpose is to receive communications or signals from earth-orbiting satellites or similar sources.
- B. A low-noise amplifier (LNA) whose purpose is to boost, magnify, store, transfer, or transmit signals.
- C. Not including telecommunications towers.

## **SCREENING**

The placement of landscaping or fencing on a lot in a manner to reduce any negative effects resulting from the location of two or more dissimilar uses next to one another.

## **SEAT**

For the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs.

## **SELF-SERVICE STORAGE FACILITY**

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers' goods or materials.

## **SERVICE CLUBS**

An association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such associated are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals, and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable federal, state, county, and local laws.

## **SERVICE GARAGE**

(See Automobile Repair, Painting, and Body Shops)

## **SERVICE STATION**

(See Automobile Service Station)

**SETBACK LINE**

A line established by the Zoning Code, generally parallel with and measured from the lot line/right-of-way, defining the limits of a yard in which no portion of any principal structure, other than accessory building, may be located except as may be provided in said Zoning Code. No portion of the submerged lot shall be counted toward the required setback. (See Yard)

**SHOOTING SPORTS**

The act of firing a gun, bow, or similar device at an outdoor or indoor range or course within a business setting.

**SEWERS, CENTRAL OR GROUP**

An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single-development, township, or region.

**SIDE LOT LINE**

(See Lot Line)

**SIDE YARD**

(See Yard)

**SIGN**

A name, identification, description, display, or illustration which is affixed, painted, or represented, directly or indirectly, upon a building structure, parcel, or lot and which directs attention to an object, product, place, activity, person, institution, organization, or business. (See Article 10 Signage.) Same as

**SINGLE-FAMILY DWELLING**

(See Dwelling; Single-Family)

**SPA/HOT TUB**

An artificial container of water with a liquid capacity greater than 100 gallons and designed with a mechanical air injection system and/or reticulating device. These devices may filter and/or disinfect the water for reuse and are not intended to be drained between uses.

**STABLE**

A structure for the keeping of horses and ponies.

**STORY**

That part of a building between the surface of a floor and the ceiling immediately above. (See Basement). (See Illustration, Exhibit "E/C" following this Section.)

**STREET**

(See Thoroughfare)

**STRUCTURAL ALTERATION**

Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls or the roof.

**STRUCTURE**

Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**SURVEY**

A description of land prepared by a professional, licensed surveyor.

**SWIMMING POOL**

A structure constructed or placed below ground or above ground, which contains water in excess of 24 inches in depth and is suitable or utilized for swimming or wading.

**TAVERN**

(See Bars, Taverns, and Nightclubs)

**TEMPORARY USE OF BUILDING**

The temporary use of land or a building permitted by the Zoning Inspector/Building Inspector/Village Administrator during periods of construction, or for special events. (See Section 1129.12/150.312/513 Temporary Uses.)

**THIS CHAPTER**

Where this term appears or shall appear, it shall be interpreted to mean and to refer to Zoning Code or the Village of Mt. Orab, inclusive of all amendments and supplemental sections which have been or may be added thereto.

**THOROUGHFARE**

The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

- A. Alley - A right-of-way used primarily for vehicular service access to the back or side of properties abutting another street.
- B. Arterial Street - A general term denoting a highway primarily for through traffic, carrying heavy loads and a large volume of traffic, usually on a continuous route.
- C. Collector Street - A thoroughfare, whether a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
- D. Cul-de-sac - A local street with one end open to traffic and the other end terminating in a vehicular turnaround.

**THROUGH LOT**

(See Lot)

**TOURIST HOME**

A building or part thereof, other than a hotel, boarding house, lodging house, or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

**TOURIST COURT**

See Motel

**TRAILER**

(See Factory Built Housing)

**TRAILER PARK**

(See Manufactured Home Court)

**TRANSPORTATION TERMINALS**

Trucking and motor-freight terminals, express and hauling establishments, rail terminals, landing strips and heliports.

**TRANSPORT TRUCKING TERMINAL**

Any business, structures, or premises which primarily receives or distributes goods by tractor trailer or similar vehicle.

**TRUCK TERMINAL**

Premises which are used for loading or unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point, and which is designed to accommodate the simultaneous loading or unloading of two (2) or more trucks.

**TWO-FAMILY DWELLING**

(See Dwelling; Two-Family)

**USE**

The purpose for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied or maintained.

**UTILITY SERVICE COMPANIES**

Utility buildings, telephone exchanges, and transformer stations or uses other than general offices.

**VARIANCE**

A modification of the strict terms of this Zoning Code where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Zoning Code which would result in unnecessary and undue hardship for a use variance or practical difficulty for an area variance.

**VEHICLE**

Anything incorporating wheels and/or chassis within its assemblage to enable its mobility across the land.

**VEHICLE SALES, RENTAL, AND SERVICE**

The sales, service, and rental of new and used cars, trucks, trailers, motorcycles, manufactured homes, recreational vehicles, snowmobiles, and boats. This does not include semi-tractor trailers, farm equipment, and construction equipment.



**VILLAGE ADMINISTRATOR – if applicable**

The Village Administrator is appointed by the Mayor and approved by the Village Council to administrate and enforce this Zoning Regulation. The Administrator may be provided with the assistance of such other people as the Mayor may designate.

**VISION CLEARANCE ON CORNER LOTS**

A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of 3 and 12 feet above the established street grade. The street grade is measured at the intersection of the centerlines of the intersecting street pavements, and the triangular space is determined by a diagonal line connecting two points measured 15 feet along each of the street property lines equidistant from the intersection of the property lines or the property lines extended, at the corner of the lot. (Refer to the Village of Mt. Orab Construction Standards and Drawings)

**WAREHOUSE**

A building used principally for the storage of goods and materials.

**WHOLESALE BUSINESS**

An establishment that is engaged in the selling of merchandise to retail establishments rather than to consumers.

**YARD**

An open space on the same lot with a main building, unoccupied, and unobstructed by structures from the ground upward, except as otherwise provided in this Zoning Code. (See Illustrations - Exhibit "B/C" and "D" following this Section.)

- A. Front Yard - An open space extending in full width of the lot, the depth of which is the minimum permitted horizontal distance between the front lot/right-of-way line and the nearest point of the main building. For corner lots and through lots, all sides of a lot adjacent to streets shall be considered Front Yard. (See Illustration Exhibit "B" following this Section)
- B. Rear Yard - An open space extending the full width of the lot, the depth of which is the minimum permitted horizontal distance between the rear lot line and the nearest point of the main building. (See Illustration Exhibit "B" following this Section)
- C. Side Yard - An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building. (See Illustration Exhibit "B" following this Section)

**ZONE**

(See "District")

**ZONING BOARD OF APPEALS**

Village of Mt. Orab Zoning Board of Appeals as appointed by the Village Council according to the Ohio Revised Code.

**ZONING CERTIFICATE**

The document issued by the Village Administrator/Zoning Inspector authorizing the use of the land or building consistent with the terms of this Ordinance and for the purpose of carrying out and enforcing its provisions.

**ZONING COMMISSION**

Village of Mt. Orab Zoning Board of Appeals as appointed by the Village Council according to the Ohio Revised Code.

**ZONING ENFORCEMENT OFFICER**

(See Zoning Inspector). Could be the same position or separated into two roles.

**ZONING INSPECTOR**

The person designated by the Village Council to administer and enforce zoning regulations and related ordinances.

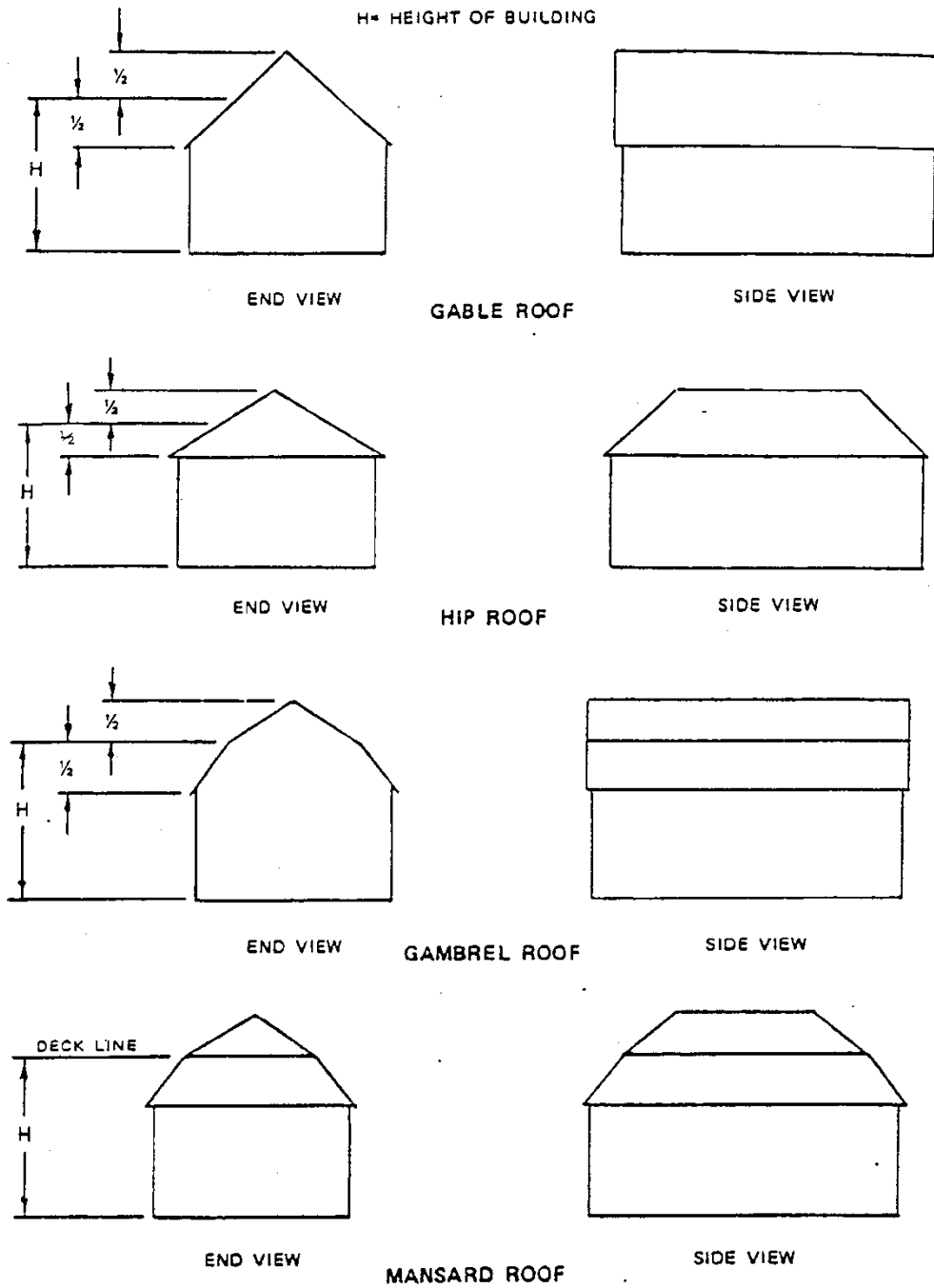
**ZONING MAP**

The Zoning Map or Maps of Mt. Orab or portion thereof together with all amendments thereto subsequently adopted and incorporated and made part of the ordinance.

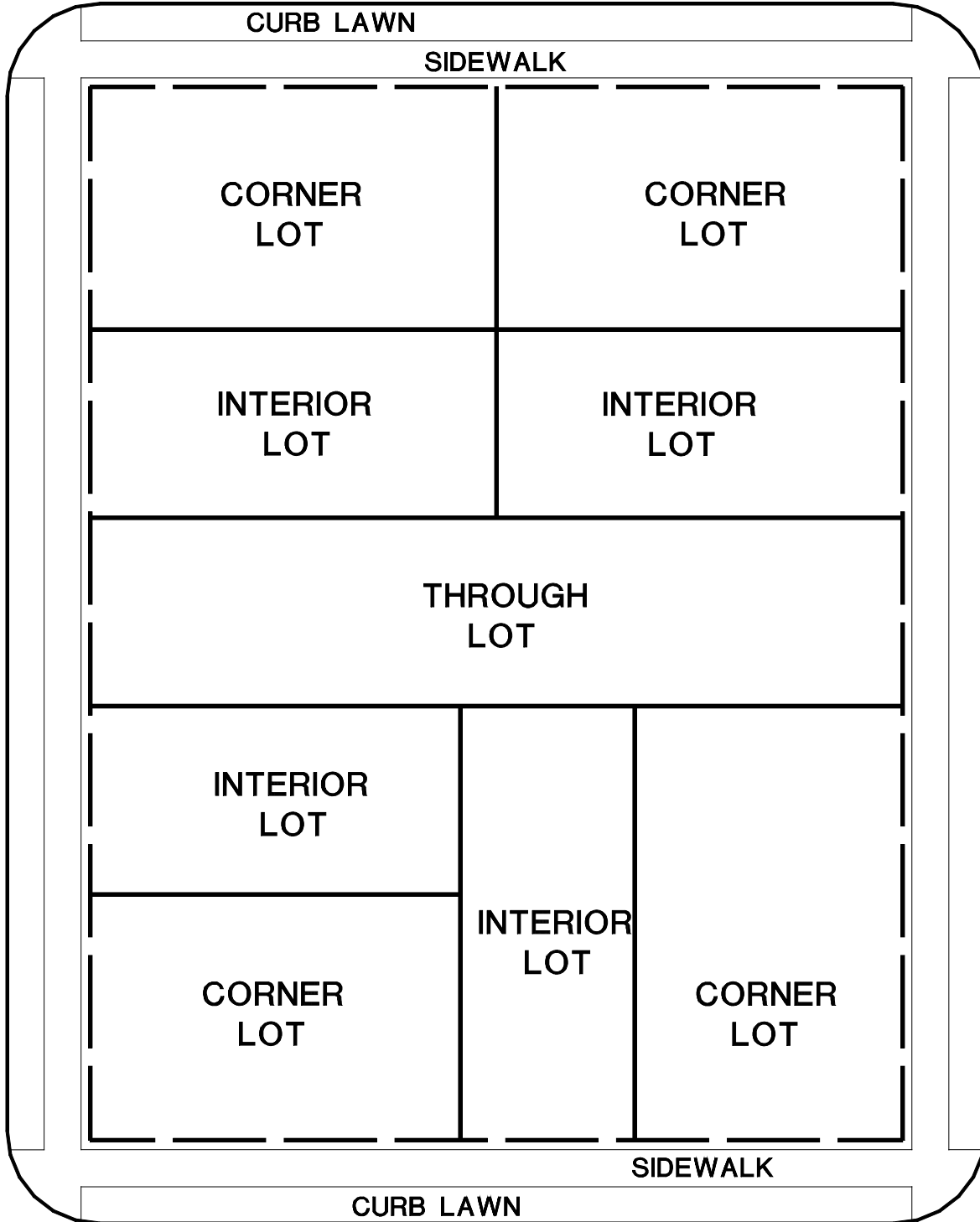
**ZONING PERMIT**

The document issued by the Zoning Inspector authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses consistent with the terms of this Ordinance and for the purpose of carrying out and enforcing its provisions.

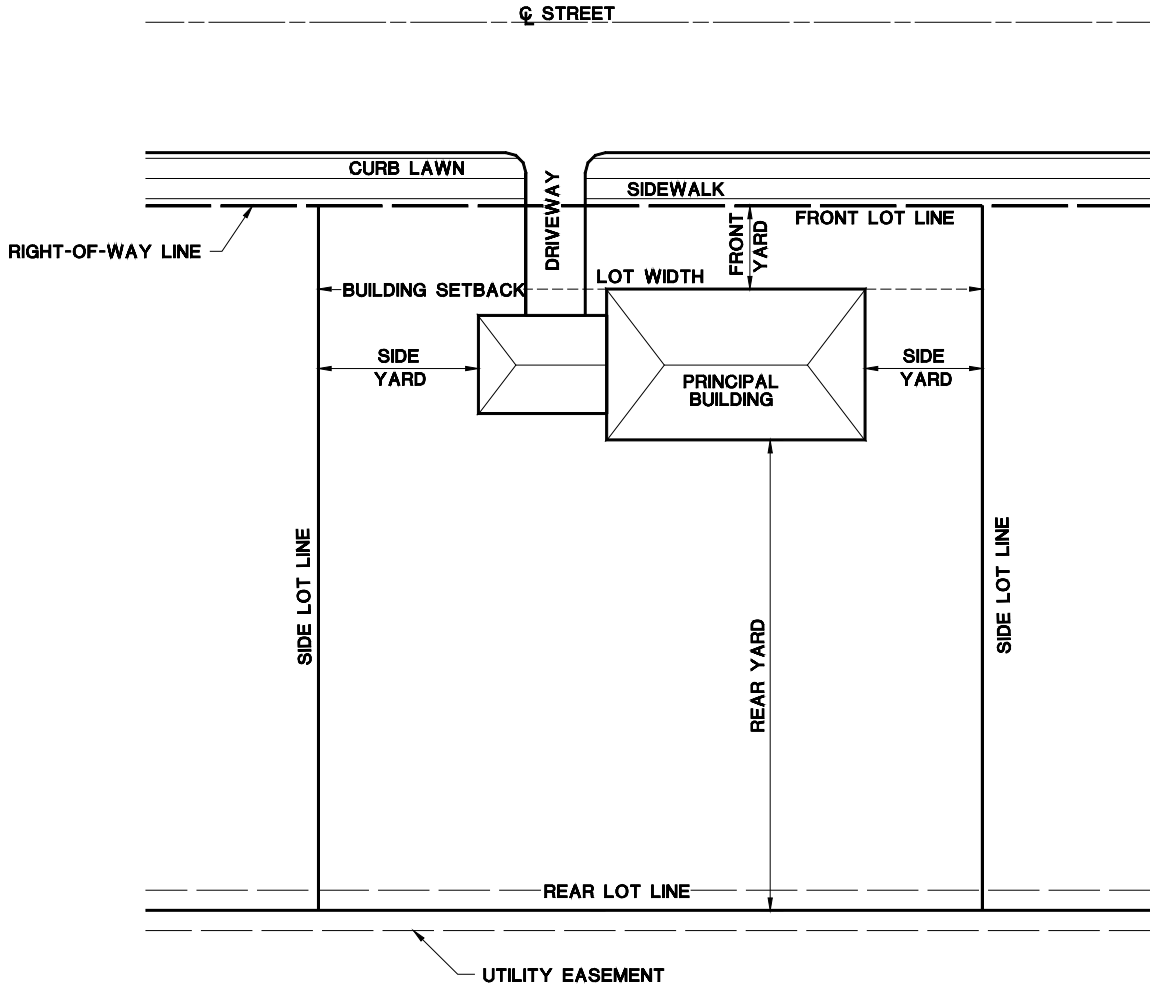
Illustration/Exhibit "A" Roof Types and Building Height



Illustration/Exhibit "B" Types of Lots



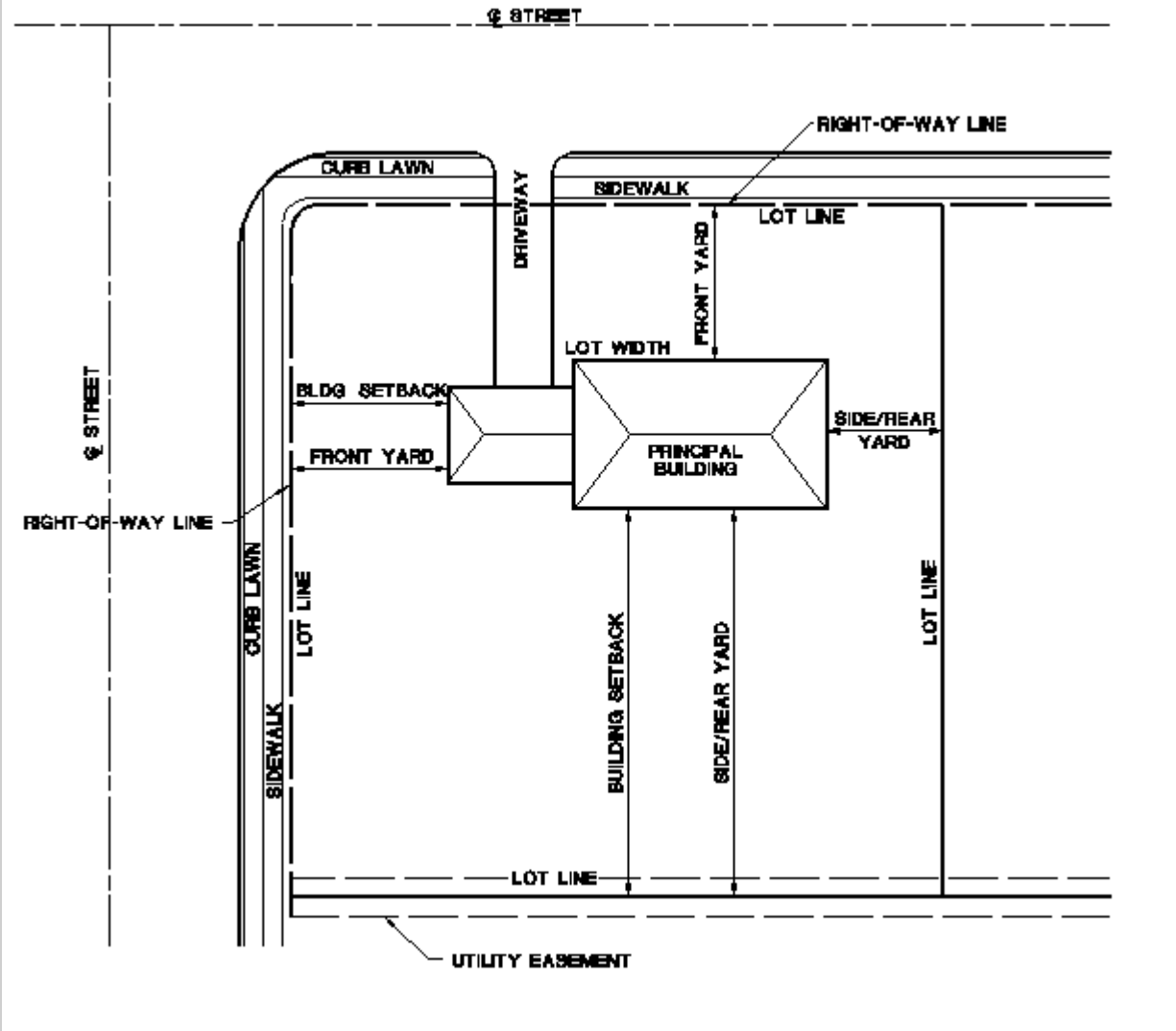
**Illustration - Exhibit "C" Interior Lot Building - Principal and Lot Terms**



**LOT AREA - TOTAL HORIZONTAL AREA NOT INCLUDING ANY RIGHT-OF-WAY**

**LOT WIDTH - MEASURED AT BUILDING SETBACK LINE**

Illustration - Exhibit "D" Corner Lot Building - Principal and Lot Terms



**LOT AREA - TOTAL HORIZONTAL AREA NOT INCLUDING ANY RIGHT-OF-WAY**

**LOT WIDTH - MEASURED AT BUILDING SETBACK LINE**

Illustration - Exhibit "E" Basement and Story

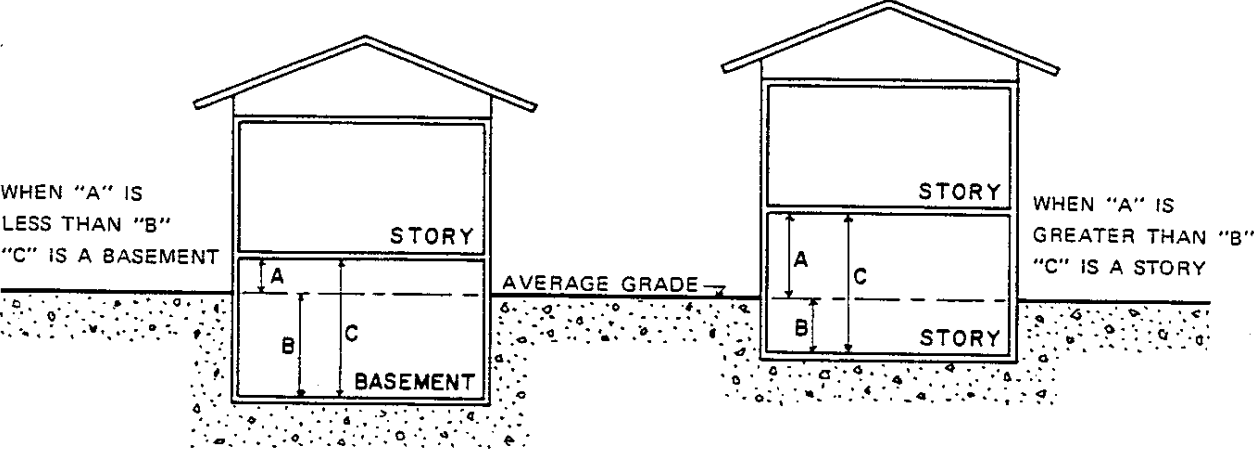
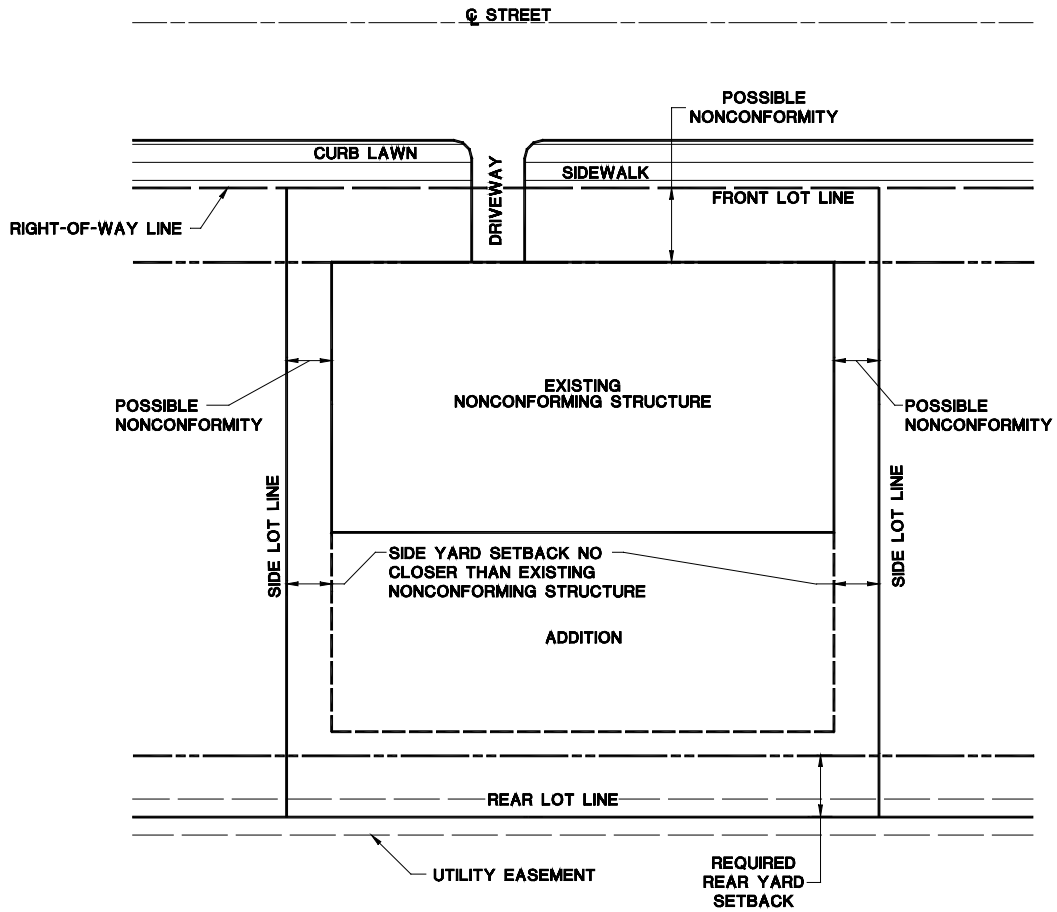


Illustration – Exhibit “F” Examples For Additions To Nonconforming Structures

See Section 709

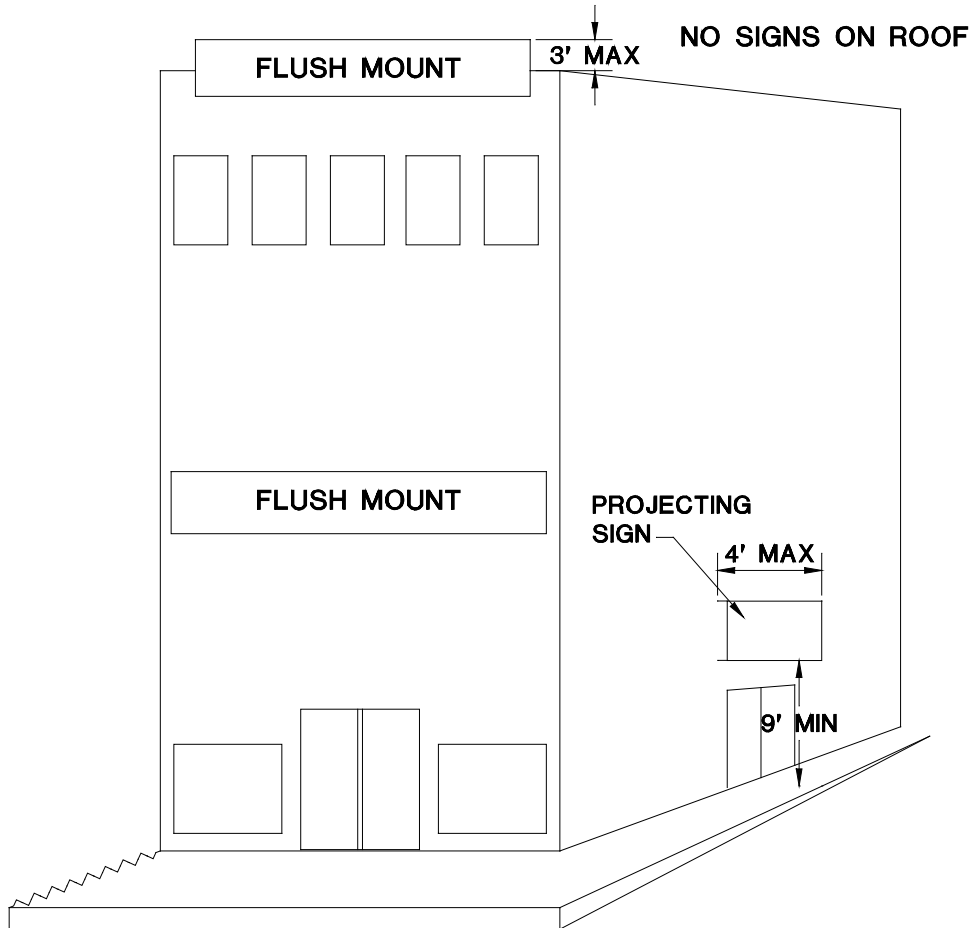




**ILLUSTRATION – EXHIBIT “E”**

**SEE SECTION 1137.09A ATTACHED SIGNS**

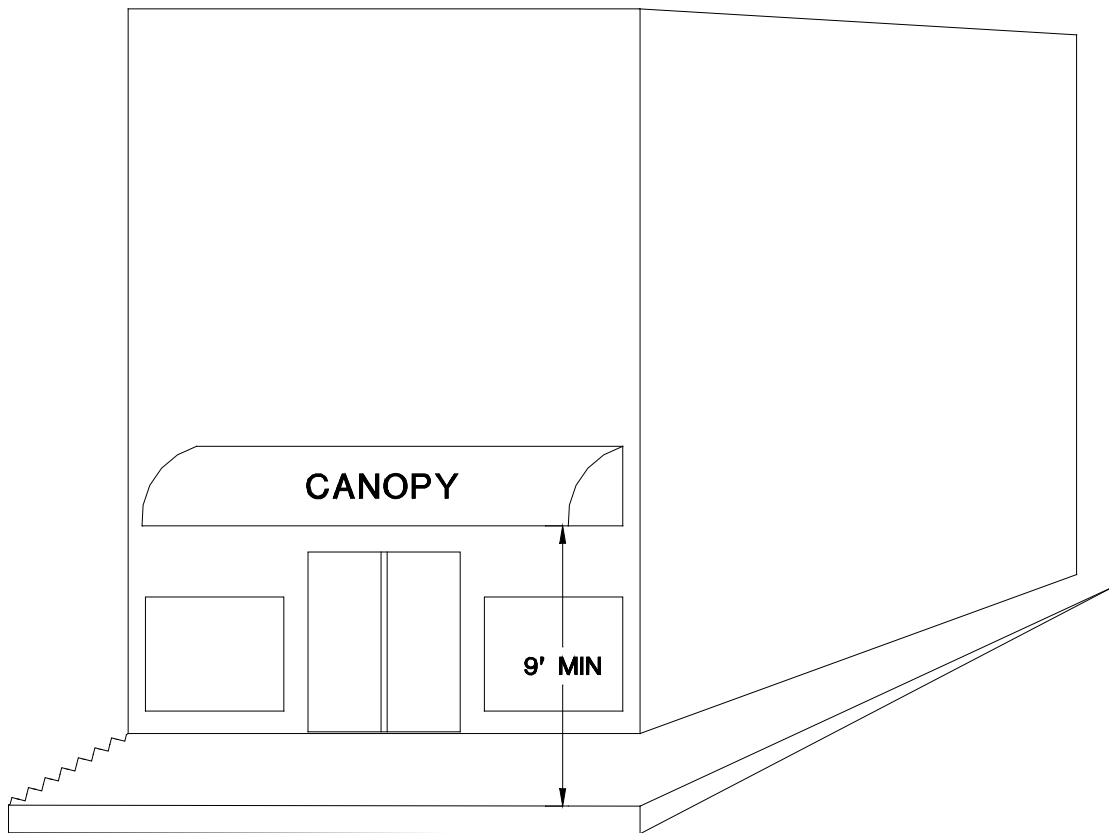
- A. No sign attached, detached, or portable shall be permitted in the right-of-way of any street or alley, except attached signs which may extend 4 feet from face of building.
- B. Total area of all attached signs shall not exceed 1 times the linear foot of the lot frontage.



**ILLUSTRATION – EXHIBIT “F”**

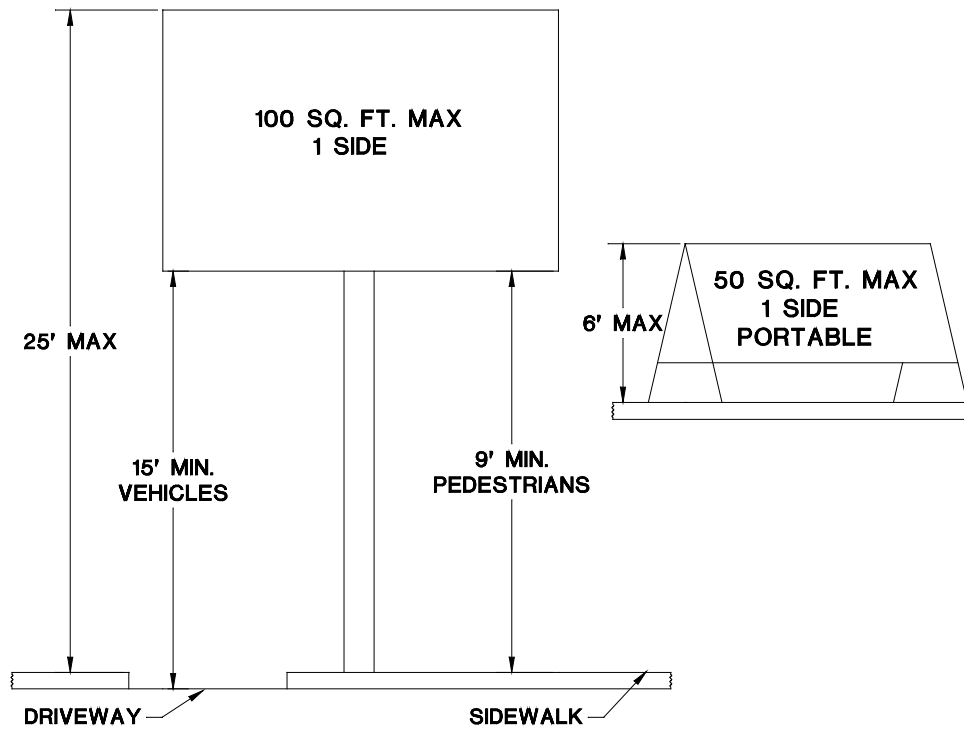
**SEE SECTION 1137.09C ARCHITECTURAL CANOPY SIGNS**

- A. Signs shall not be located on or project over any right-of-way except in a C Commercial District in which it may extend 4 feet from face of building or 3 feet off the back of curb.
- B. Signs shall not be permitted to obstruct or adversely affect traffic visibility.
- C. Signs shall not be closer than 25 feet to the adjacent lot.



**ILLUSTRATION – EXHIBIT “G”**  
**SEE SECTION 1137.09B DETACHED SIGNS**

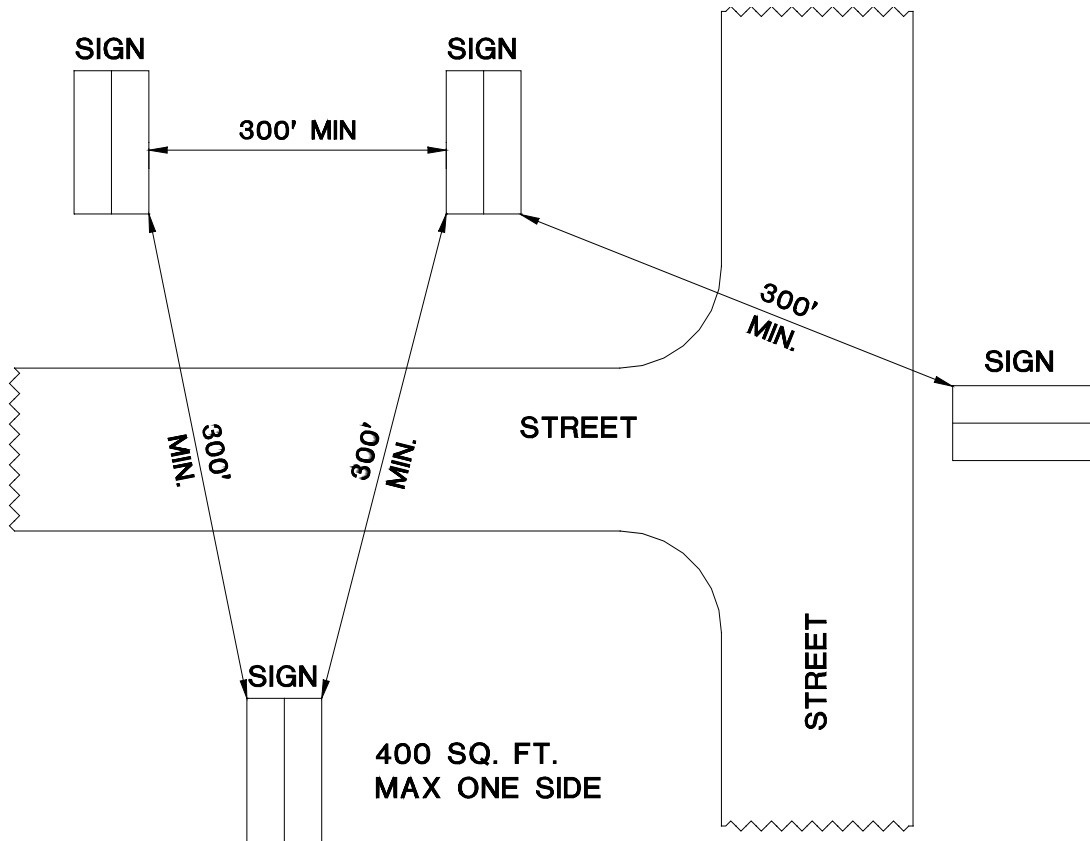
Signs may not project more than 3 feet over a public right-of-way and not more than 6 feet over private property.



**ILLUSTRATION – EXHIBIT “H”**

**SEE SECTION 1129.21 BILLBOARDS**

- A. Billboards will be set back from all right-of-way at least as far as required front yard depth for principal buildings in the district where located.
- B. No billboards will exceed the height of the roof line of the building.
- C. No more than two billboards shall be attached together.
- D. There shall be a 400 sq. ft. maximum area per side of the billboards.



## ARTICLE 3 ESTABLISHING DISTRICTS AND ZONING MAP

### 301 Intent

The intent of this article is to establish zoning districts in order to realize the general purpose set forth in the Preamble of this Zoning Code, to provide for orderly growth and development, and to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts.

### 302 Establishment of Districts

The following zoning districts are hereby established for the Village of Mt. Orab, Ohio:

- A. R-1: Single Family Residential District
- B. R-2: Single Family Residential District
- C. R-3: Multiple Family Residential District
- D. NB: Neighborhood Business District
- E. CB: Central Business District
- F. I1: I/NB- Industrial/Neighborhood Business District
- G. I2: Industrial District

The following district overlays are hereby established for the Village of Mt. Orab, Ohio:

- A. PUD: Planned Unit Development Overlay
- B. HTO: High-Tech Overlay

### 303 Zoning District Map

- A. The districts established above, as shown on the official zoning map, which, together with all data, references, explanatory material, and notations thereon, are hereby officially adopted as part of this Zoning Code and hereby incorporated by reference herein, thereby having the same force and effect as if herein fully described in writing.
- B. The official zoning map shall be identified by the signature of the Mayor and clerk of the Village Council. If, in accordance with the provisions of this Zoning Code, changes are made in district boundaries or other matter portrayed on the official zoning map, these changes shall be made on the official zoning map within thirty (30) normal working days after effective date of the amendment.
- C. The original and one copy of the official zoning map are to be maintained and kept up to date; one copy on public display in the Village Council Chambers, accessible to the public, and shall be final authority as to the current zoning status of lands, buildings, and other structures in the Village.

### 304 Rules for Map Interpretation

- A. When definite distances in feet are not shown on the official zoning district map, the district boundaries on the official zoning district map are intended to be along existing street, alley, or

property lines or extensions of or from the same, and if the exact location of such line is not clear it shall be determined by either supplemental detail drawings or rules of interpretation, adopted by the concurring vote of four members of the Board of Appeals.

- B. When the streets or alleys on the ground differ from the streets or alleys on the official zoning district map, the Board of Appeals may apply the district designation of the map to the property on the ground in such manner as to conform to the intent and purposes of this Section in the judgment of said Board.
- C. Whenever any street, alley, railroad right-of-way, or other public way is vacated by official action of the Council, the zoning district adjoining each side of street, alley, railroad right-of-way, or public way shall automatically extend to the center of such vacated way and all area included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all the vacated area. Any vacation of right-of-way or public way shall be subject to Ohio Revised Code, Section 723.041 and the right of permanent easement of any utility located on, over, or under such vacated public way or part thereof shall continue.

### 305 Interpretation of District Boundaries

The following rules shall be used to determine the precise location of any zoning district boundary unless such boundary is specifically indicated on the official zoning map.

- A. Where district boundaries are so indicated as approximately following the centerlines of streets, or street right-of-way lines, such centerlines, street lines, or right-of-way lines shall be construed to be said boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or right-of-way lines, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the official zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the official zoning map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.
- E. Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Village unless otherwise indicated.
- F. Where district boundaries are so indicated that they follow or approximately follow the limits of any municipal corporation, such boundaries shall be construed as following such limits.
- G. Whenever any street, alley, railroad right-of-way, or other public way is vacated by official action of the Village Council, the zoning district adjoining each side of such street, alley, railroad right-of-way, or public way shall automatically extend to the center of such vacated way and all area included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all the vacated area. Any

vacation of right-of-way or public way shall be subject to Ohio Revised Code Section 723.041 and the right of permanent easement of any utility located on, over, or under such vacated public way or part thereof shall continue.

All questions and disputes concerning the exact location of zoning district boundaries shall be resolved by the Board of Zoning Appeals.

### **306 Zoning upon Annexation**

Whenever any area is annexed to the Village, the petitioner shall cooperate and shall execute and deliver such documents as may be required by the Village Council to rezone such area to the zoning category designated by the Village Council.

- A. Where land previously zoned by another jurisdiction is annexed to the Village, the same shall be zoned the same zoning district as land that is already within the Village and most closely in accordance with the existing use of the land already within the Village.
- B. Land not zoned prior to annexation shall be classified in the same manner into whichever district of the Zoning Ordinance most closely is in accordance with the existing use of the annexed area or in accordance with the comprehensive development plan in the case of vacant land. Zoning/building permits may be issued only after the Village has given the land its permanent zoning classification.
- C. In all cases, within three months after the effective date of annexation, the Planning Commission shall recommend the appropriate permanent zoning district for such area to Council, and the official zoning district map shall be amended according to the prescribed procedure set forth in Article Six.

## ARTICLE 4 DISTRICT REGULATIONS

### 401 Compliance with Regulations

The Regulations for each district set forth by this Zoning Code shall be the minimum Regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

- A. No building, structure, or land shall be used or occupied and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations specified for the district in which it is located.
- B. Except as otherwise provided in this Zoning Code, no building or other structure shall be erected or altered:
  - 1. To provide for greater height or bulk;
  - 2. To accommodate or house a greater number of families;
  - 3. To occupy a greater percentage of lot area;
  - 4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than required in its district, or in any other manner be contrary to the provisions of this Zoning Code.
- C. Except as otherwise provided in this Zoning Code, no yard or lot existing at the time of passage of this Zoning Code shall be reduced in dimension or area below the minimum requirements set forth in the district. Yards or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements set forth in the district.
- D. These Zoning Regulation shall not repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law or ordinance or any rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or premises; provided that where these Zoning Regulation impose a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger lots or yards than are imposed or required by such existing provisions of law or ordinance or by such rules or regulations the provisions of these Zoning Regulation shall control.



402 Summary of Zoning District Requirements

**VILLAGE OF MT. ORAB ZONING CODE**

Zoning District	Minimum Lot Area (1)	Minimum Lot Width (2)	Minimum Front Yard Setback (3)	Minimum Side Yard Setback (4)	Minimum Rear Yard Setback (5)	Maximum Height (6)	Floor Area ("Living Space")
R-1 SINGLE FAMILY RESIDENTIAL	12,000 sq. ft.	75 ft	25 ft	15 ft (each side)	30 ft	30 ft or 2 ½ stories	1,300 sq. ft.
R-2 TWO FAMILY RESIDENTIAL Single Family Dwelling	8,000 sq. ft.	50 ft	25 ft	5 ft each	30 ft	35 ft	1,300 sq. ft.
Two Family Dwelling	5,000 sq. ft per unit, total 10,000 sq. ft.	50 ft	25 ft	5 ft each	30 ft	45 ft or 3 stories	900 sq. ft. per unit
R-3 MULTI- FAMILY RESIDENTIAL Single Family	8,000 sq. ft.	50 ft	25 feet	5 ft each	30 ft	35 ft	1,300 sq. ft. per unit
Two Family	10,000 sq. ft per unit	50 ft	25 feet	5 ft each	30 ft	45 ft	900 sq. ft. per unit
Multiple Family	10,000 sq. ft. first 2, 1,000 sq. ft. for each after	50 ft. first 2, 10 ft. each after	25 feet	5 ft. first 2, 1 ft. each after	30 ft	55 ft (or 4 stories)	800 sq. ft. per unit
NB NEIGHBORHOOD BUSINESS	(A)	80 ft	40 ft	10 ft each (B)	10 (C)		(A)
CB CENTRAL BUSINESS	(A)	85 ft	None	None			(A)
I1: I/NB INDUSTRIAL/NEIGHBORHOOD BUSINESS	(A)	85 ft	40 ft	10 ft each (B)	10 (C)		(A)
I2 INDUSTRIAL	None	100 ft	40 ft	50 ft. each (D)	20 ft. (E)	90 ft or 6 stories	
HTO High-Tech Overlay	None	100 ft	50 ft	50 ft. each	50 ft.	90 ft or 6 stories	

(A) Except for Residential Use same as R-3.

(B) Except when adjacent to a Residential District. In such case, the side yard shall not be less than twenty-five (25) feet. Screening, either planting or fence, six (6) feet in height shall be required.

(C) A rear yard shall be required adjacent to a residential district. Such rear yard shall not be less than twenty-five (25) feet. Screening, either planting or fence, six (6) feet in height shall be required.

(D) If adjacent lots are industrially developed, no side yard is required. A side yard of not less than 50 feet and landscaped screening will be provided when abutting Residential Uses.

(E) If adjacent lots are industrially developed, no rear yard is required. If the use is to be serviced from the rear, the rear yard is at least 50 feet. A rear yard of

not less than 50 feet and landscaped screening will be provided when abutting Residential Uses.

(1) Lot, Minimum Area of; also Illustration Exhibits "C" and "D"

(2) Lot Measurement, Width; also Illustration Exhibits "C" and "D"

(3) Yard, Front Yard; also Illustration Exhibits "C" and "D"

(4) Yard, Side Yard; also Illustration Exhibits "C" and "D"

(5) Yard, Rear Yard; also Illustration Exhibits "C" and "D"

(6) Building Heights; also Illustration Exhibits "A"

### 403 R-1 Single-Family Residential District

The intent of this district is to provide medium-density, single-family dwellings, plus those public and private facilities serving the residents of the area.

#### Principal Permitted Uses

- A. Residential Uses
  - 1. Single-Family
  - 2. Farming or Gardening

#### Conditional Uses

A building or premises may be used for the following purposes in the R-1 Single-Family Residential District if a Conditional Use Permit for the use has been obtained in conformance with the provisions of these Regulations - Conditional Use Permits.

- A. Residential Uses
  - 1. Residential Planned Unit Developments subject to the provisions of these Regulations - Planned Unit Developments.
- B. Public and Recreational Uses
  - 1. Educational Institutions, Elementary, Junior High, and High Schools
  - 2. Places of Worship
  - 3. Libraries
  - 4. Public Parks
  - 5. Public Buildings of all Types
  - 6. Museums
- C. Business Offices
  - 1. Medical Offices and Clinics
  - 2. Business, Professional, and Administrative Offices

#### Prohibited Uses

No building or structure within this district shall be used by any commercial or industrial establishment.

#### Height and Area Regulations

The maximum height and minimum lot requirements within the R-1 Single-Family Residential District shall be as follows:

##### General Requirements for Dwellings:

Minimum Lot Area	12,000 square feet
Minimum Lot Width	75 feet
Minimum Front Yard Setback	25 feet
Minimum Side Yard Setback	15 feet each

Minimum Rear Yard Setback	30 feet
Maximum Height	30 feet or 2½ stories
Minimum Living Area	1,300 sq. ft.

**Cross References**

- Supplemental District Regulations, Article 5
- Conditional Uses; Substantially Similar Uses, Article 6
- Planned Unit Developments, Article 8
- Off-Street Parking and Loading Facilities, Article 9
- Signage, Article 10
- Zoning Permit Requirements and Enforcement, Article 14

#### 404 R-2 Two-Family Residential District

The intent of this district is to provide a sound housing mix plus public and private facilities serving the residents of the area. This district provides for an approximate maximum density of 10 dwelling units per acre and recognizes the development of other than single-family dwelling units.

##### **Principal Permitted Uses**

- A. Residential Uses
  - 1. Single-Family
  - 2. Two-Family
  - 3. Farming or Gardening

##### **Conditional Uses**

A building or premises may be used for the following purposes in the R-2 Two-Family Residential District if a Conditional Use Permit for the use has been obtained in conformance with the provisions of these Regulations - Conditional Use Permits.

- A. Residential Uses
  - 1. Residential Planned Unit Developments subject to the provisions of these Regulations - Planned Unit Developments.
- B. Public and Recreational Uses
  - 1. Educational Institutions, Elementary, Junior High, and High Schools
  - 2. Places of Worship
  - 3. Libraries
  - 4. Public Parks
  - 5. Public Buildings of all Types
  - 6. Museums
- C. Business Offices
  - 1. Medical Offices and Clinics
  - 2. Business, Professional, and Administrative Offices

##### **Prohibited Uses**

No building or structure within this district shall be used by any commercial or industrial establishment.

##### **Height and Area Regulations**

The maximum height and minimum lot requirements within the R-2 Two-Family Residential District shall be as follows:

##### General Requirements for Dwellings:

Minimum Lot Area	5,000 square feet per unit, 10,000 sq. ft. total (8,000 for Single Family)
------------------	--

Minimum Lot Width	50 feet
Minimum Front Yard Setback	25 feet
Minimum Side Yard Setback	5 feet each
Minimum Rear Yard Setback	30 feet
Maximum Height	45 feet or 3 stories
Minimum Living Area	900 sq. ft.

**Cross References**

- Supplemental District Regulations, Article 5
- Conditional Uses; Substantially Similar Uses, Article 6
- Planned Unit Developments, Article 8
- Off-Street Parking and Loading Facilities, Article 9
- Signage, Article 10
- Zoning Permit Requirements and Enforcement, Article 14

#### 405 R-3 Multi-Family Residential District

It is the purpose of the R-3 Multi-Family Residence District to establish and maintain an area within the urban service area for multi-family residential development, as well as two family and single family attached and detached dwellings.

##### **Principal Permitted Uses**

- A. Residential Uses
  - 1. Single-Family
  - 2. Two-Family
  - 3. Multi-Family
  - 4. Farming or Gardening

##### **Conditional Uses**

A building or premises may be used for the following purposes in the R-3 Multi-Family Residential District if a Conditional Use Permit for the use has been obtained in conformance with the provisions of these Regulations - Conditional Use Permits.

- A. Residential Uses
  - 1. Residential Planned Unit Developments subject to the provisions of these Regulations - Planned Unit Developments.
- B. Public and Recreational Uses
  - 1. Educational Institutions, Elementary, Junior High, and High Schools
  - 2. Places of Worship
  - 3. Libraries
  - 4. Public Parks
  - 5. Public Buildings of all Types
  - 6. Museums
- C. Business Offices
  - 1. Medical Offices and Clinics
  - 2. Business, Professional, and Administrative Offices

##### **Prohibited Uses**

No building or structure within this district shall be used by any commercial or industrial establishment.

##### **Height and Area Regulations**

The maximum height and minimum lot requirements within the R-3 Multi-Family Residential District shall be as follows:

General Requirements for Dwellings:

Minimum Lot Area	10,000 square feet first two units, 1,000 sq. ft. for each after
Minimum Lot Width	50 feet first two, 10 ft. each additional
Minimum Front Yard Setback	25 feet
Minimum Side Yard Setback	5 feet each for first two, 1 feet additional after
Minimum Rear Yard Setback	30 feet
Maximum Height	55 feet or 4 stories
Minimum Living Area	800 sq. ft.

**Cross References**

- Supplemental District Regulations, Article 5
- Conditional Uses; Substantially Similar Uses, Article 6
- Planned Unit Developments, Article 8
- Off-Street Parking and Loading Facilities, Article 9
- Signage, Article 10
- Zoning Permit Requirements and Enforcement, Article 14

#### 406 NB- Neighborhood Business District

It is the purpose of the "NB" Neighborhood Business District to accommodate land areas for convenience goods and personal service establishments located in close proximity to the residential areas which they are intended to serve.

##### **Principal Permitted Uses**

Within the NB Neighborhood Business District, no building or other structure or land shall be used, and no building or other structure shall be built, altered or erected to be used for any purpose other than that of:

1. A use permitted in the "R-3" Multi-Family Residence District.
2. Shops offering personal services such as barbers, beauty parlors, and branch laundries (where no laundering or cleaning is done on the premises).
3. Drugs stores.
4. Hardware stores.
5. Shops offering retail, foods and food products such as fruit markets, meat markets, grocery stores, and bakeries.
6. Shops offering repair services, such as small appliance and shoe repair.
7. Offices and office buildings.
8. Self-Service Laundry and Dry-Cleaning establishments.
9. Signs not longer than sixty (60) square foot and not more than one (1) per establishment, advertising a business or activity conducted on the premises.
10. Any necessary use or building customarily incidental to the above permitted uses.
11. Any use which in the opinion of the Planning Commission to be the same general character as the above permitted uses.

##### **Uses Permitted as Special Exceptions**

The following uses are special exceptions and require written approve of the Planning Commission:

1. Trade or Business Schools.
2. Music Schools or Schools of Dance.
3. Commercial Swimming Pools and Skating Rinks or similar open-air recreational uses and facilities if located at least two hundred (200) feet away from any residential district.
4. Animal Hospital or Veterinary Clinic, not including any exercise runway, provided any structure or premises used for such purpose shall be at least two hundred (200) feet away for any Residential District, and one hundred (100) feet for any other permitted use in the "NB" Neighborhood Business District.



#### 407 CB- Central Business District

It is the purpose of the "CB" Central Business District to provide for businesses to serve the center of the Village. This is a defined and outlined area that allows for smaller front and side yard setbacks, a greater intensity of clustered businesses, limited required parking, etc.

##### **Principal Permitted Uses**

Within the CB Central Business District no building or structure or land shall be used, and no building or other structure shall be built, altered, or erected to be used for any purpose other than that of:

1. A use permitted in the Neighborhood Business District
2. Automobile Service Station
3. Any Retail Business or Service
4. Restaurants, Hotels and Motels
5. Public Garages and Auto Repair
6. Financial Establishments
7. Attached signs provided they do not project more than forty-two (42) inches from the building and the bottom of the sign shall not be less than twelve (12) feet above the finished grade of any sidewalk. Small signs of not more than two (2) square feet in area and extending not more than two (2) feet beyond the building to which they are attached may be placed at any desired level above the finished sidewalk.
8. Trade and Business Schools, schools of music or dance, and recreational establishments operated entirely within an enclosed building.
9. Any use which in the opinion of the Board of Zoning Appeal to be the same general character as the above permitted uses.

##### **Uses Permitted as Special Exceptions**

The following uses are special exceptions and require written approval of the Planning Commission:

1. Any School
2. Public Offices, Buildings & Utilities
3. Hospitals
4. Private Clubs
5. Service Garage
6. Bars, Taverns, & Nightclubs
7. Commercial Entertainment Facilities
8. Grain Bins and Grain Elevator
9. Adult Entertainment Facilities
10. Planned Industrial Developments (I-PUDs)
11. Open Industrial

#### 408 I1: I/NB- Industrial/Neighborhood Business District

It is the purpose of the I1- I/NB Industrial/Neighborhood Business District to accommodate and encourage the development of both businesses of more intense and larger scale use than the Neighborhood Business District and light industry uses which generally operate within enclosed structures and which are primarily clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare or vibration. More intensive industrial uses can be permitted on a Conditional Use basis by the Planning Commission.

#### **Principal Permitted Uses**

Within the "I/NB" Industrial/Neighborhood Business District, no building or other structure or land shall be used, and no building or other structure shall be built, altered or erected to be used for any purpose other than that of:

1. Business, Professional, and Administrative Offices
2. A use permitted in the Neighborhood Business District
3. Business, Professional, and Administrative Offices
4. Medical Offices & Clinics
5. Commercial Recreation Facilities
6. Neighborhood Businesses
7. General Merchandise Stores
8. Personal Services
9. Restaurants
10. Financial Establishments
11. Commercial Planned Unit Developments (C-PUDs)
12. Nurseries & Garden Supply Stores/Greenhouse
13. Funeral Homes
14. Animal Hospitals, Veterinary Clinics & Kennels, Animal Grooming, Pet Shops
15. Private Schools
16. Bowling Alley
17. Arcade, Pool Hall
18. Automobile Service Stations
19. Fraternal & Social Facility
20. Convenience Store
21. Motels & Hotels
22. Printing, Publishing, Lithographing, and Binding Establishments
23. Self-Service Storage Facility
24. Automobile Repair, Painting, and Body Shops
25. Automobile Washing Facilities
26. Vehicle Sales, Rental, and Service
27. Carry-Outs, Mini-Market, and Drive-Through, and Drive-In Stores
28. Commercial Recreation Facilities
29. Farm Implement Sales
30. Building Services & Supplies
31. Plumbing & Heating Shops
32. Wholesale Distributors
33. Lumber Yards & Building Materials Sale & Storage

34. Warehouses
35. Heavy Equipment Rental, Sales, Service, and Storage
36. Transportation Terminals
37. Public Service Yards & Garages
38. Public Utilities
39. Attached signs provided they do not project more than forty-two (42) inches from the building and the bottom of the sign shall not be less than twelve (12) feet above the finished grade of any sidewalk. Small signs of not more than two (2) square feet in area and extending not more than two (2) feet beyond the building to which they are attached may be placed at any desired level above the finished sidewalk.
40. Trade and Business Schools, schools of music or dance, and recreational establishments operated entirely within an enclosed building.
41. Any use which in the opinion of the Planning Commission to be the same general character as the above permitted uses.
42. Signs not longer than sixty (60) square foot and not more than one (1) per establishment, advertising a business or activity conducted on the premises.
43. Any necessary use or building customarily incidental to the above permitted uses.
44. Any use which in the opinion of the Planning Commission to be the same general character as the above permitted uses.

#### **Uses Permitted as Special Exceptions**

The following uses are special exceptions and require written approve of the Planning Commission:

1. Trade or Business Schools.
2. Music Schools or Schools of Dance.
3. Commercial Swimming Pools and Skating Rinks or similar open-air recreational uses and facilities if located at least two hundred (200) feet away from any residential district.
4. Animal Hospital or Veterinary Clinic, not including any exercise runway, provided any structure or premises used for such purpose shall be at least two hundred (200) feet away for any Residential District, and one hundred (100) feet for any other permitted use in the "C-1" Neighborhood Business District.

#### **Prohibited Uses**

The following list of uses and businesses shall NOT be permitted in I/NB Districts:

1. Single Family Residential
2. Two-Family Residential
3. Multi-Family Residential
4. Boarding or Lodging Houses
5. Residential PUDs
6. Elderly Housing Facilities
7. Places of Worship
8. Libraries
9. Public Recreation Facilities
10. Cemeteries
11. Child Day Care Centers
12. Nursing & Convalescent Homes

## 409 I2- Industrial District

It is the purpose of the I2 Industrial District to accommodate and encourage the development of light industry uses which are generally operate within enclosed structures and which are primarily clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare or vibration. More intensive industrial uses can be permitted on a Conditional Use basis by the Planning Commission.

### **Principal Permitted Uses**

The following list of uses and businesses shall be permitted in the I2: Industrial District. It includes, but is not limited to:

1. Automotive Repair or Service
2. Building Material Sales
3. Building Trades
4. Commercial Greenhouse
5. Equipment Rental
6. Lumber Yard
7. Contractor Offices & Storage
8. Light Manufacturing
9. Office-Warehouse
10. Research and Development Facility or Laboratory
11. Truck Terminal
12. Warehousing, Distribution, or Storage Facility (not Mini)

### **Prohibited Uses**

The following list of uses and businesses shall NOT be permitted in the I2: Industrial District:

1. Retail
2. Commercial
3. Hospital
4. Convenience Store
5. School, University, or College
6. Detention center, Jail, Prison
7. Assisted Living Facility
8. Churches/Religious Organizations
9. Daycare
10. Restaurant
11. Amusement Park or Recreation Center
12. Hotel
13. Residential
14. Landfill or Junk Yard
15. Medical and Dental Office/Operational Use
16. Mini-Storage Warehouses
17. Acid Manufacturing
18. Asphalt Manufacturing
19. Brick Tile Manufacturing

20. Carbon, Coke, or Lamp Black Manufacturing
21. Cement, Lime, etc. Manufacturing
22. Creosote Manufacturing
23. Distillation of Bones, Coal or Wood
24. Fertilizer Manufacturing
25. Junk Storage
26. Match Manufacturing
27. Rock Crushing
28. Reclaiming Rubber
29. Slaughterhouse or Stockyard
30. Manufacturing of Explosives
31. Tar Distillation or Manufacturing

## 410 HTO: High-Tech Overlay District

### **Intent**

The intent of this section is to establish the High-Tech Overlay (“HTO”) district which is to overlay existing zoning districts. The purpose of the HTO district is to impose regulations on the manner in which properties in the HTO district are used for data center purposes only, in lieu of those regulations imposed by the underlying zoning, unless expressly stated otherwise. The HTO district incorporates more than one category of land use or zoning district.

### **Permitted Use**

Within the HTO district, the following use shall be permitted within the boundaries of the HTO district. The permitted use within the HTO is in addition to the permitted uses in the underlying zoning district.

### **Data Center**

Development of one or more data centers and/or other facilities used to house, and in which are operated, maintained and replaced from time to time, computer systems and associated components, such as telecommunications and storage systems, cooling systems, power supplies and systems for managing property performance (including generators and mechanical and electrical yards), and equipment used for the transformation, transmission, distribution and management of electricity (including public or private substations and industrial natural gas fired generators), internet-related equipment, data communications connections, private communication towers, environmental controls and security devices, structures and site features, as well as certain accessory uses or buildings located on the land and other related or associated uses, buildings or structures such as utility buildings, office, warehousing, cafeteria, guardhouse, diesel storage tanks, water storage tanks, security fencing, and other structures, improvements and appurtenances.

### **HTO District Design and Development Standards**

The design and development standards within the HTO district only apply in the event properties within the HTO district boundaries are used as a data center. If properties within the HTO district are used for any other use as permitted in the underlying zoning district, the zoning standards of the underlying zoning district control.

- A) Setback Requirements.
  - a. Front yard setback: 50 feet
  - b. Side yard setback: 50 feet
  - c. Rear yard setback: 50 feet
- B) Maximum Permissible Sound Levels.
  - a. 70 decibels measured at the property line
  - b. 65 decibels measured at residential receptor
  - c. The following uses and activities shall be exempt from the noise level regulation set forth herein:
    - i. No distinction between daytime and nighttime sound levels.
    - ii. Noises of warning and alarm devices and safety signals.
    - iii. Noises resulting from any emergency work or the operation of equipment during emergency events, including a utility outage or when a property is in imminent exposure to danger.
    - iv. Noise resulting from construction activity or construction equipment during the time period from 7:00 a.m. to 7:00 p.m.

- C) Minimum Lot Area.
  - a. None.
- D) Minimum Lot Width.
  - a. 100 feet
- E) Building Height.
  - a. No building within the HTO district shall exceed six stories or 90 feet in height.
- F) Parking.
  - a. 1 parking space shall be required per 1.5 total full-time employees, not employees per shift.
- G) Buffer and Transition Between Residential/Commercial and Residential/Industrial Zoned Properties.
  - a. Section 505 of the Zoning Code shall govern.
- H) Fences.
  - a. Fences shall be a minimum of 6 feet in height.
- I) Dumpsters.
  - a. Section 509 of the Zoning Code shall govern.

411 Zoning District Permitted Use Charts

**VILLAGE OF MT. ORAB ZONING CODE**

USE	ZONING DISTRICT						
	R-1	R-2	R-3	NB	CB	I1: I/NB	I-2
P = Principal Permitted Use C = Conditional Use	Single Family Residential	Two Family Residential	Multiple Family Residential	Neighborhood Business	Central Business	Industrial/ Neighborhood Business	Industrial
<b>AGRICULTURE</b>	P	P	P	P	P	P	P
<b>RESIDENTIAL</b>							
Single-Family	P	P	P	C	C		
Two-Family		P	P	C	C		
Multi-Family			P	C	C		
Boarding or Lodging Houses				C	C		
Residential Planned Unit Developments	C	C	C	C	C		
Elderly Housing Facilities				C	C		
Home Occupations	C	C	C	C	C		
<b>INSTITUTIONAL &amp; PUBLIC RECREATIONAL USES</b>							
Elementary, Junior High, and High Schools	P	P	P	P	P	C	
Places of Worship	P	P	P	P	P		
Libraries	P	P	P	P	P		
Public Recreation Facilities	C	C	C	C	C		
Cemeteries	C	C	C	C	C		
Public Offices, Public Buildings, and Public Utilities	C	C	C	P	P	C	
Child Day Care Centers		C	C	C	C		
Nursing and Convalescent Homes				C	C		
Hospitals				C	C	C	
Private Clubs				C	C	C	
<b>BUSINESS AND PROFESSIONAL OFFICE USES</b>							
Business, Professional, and Administrative Offices				P	P	P	
Medical Offices and Clinics				P	P	P	
<b>RETAIL COMMERCIAL AND SERVICE USES</b>							
Commercial Recreation Facilities				P	P	P	
Neighborhood Businesses				P	P	P	
General Merchandise Stores				P	P	P	
Personal Services				P	P	P	



USE	ZONING DISTRICT						
	R-1	R-2	R-3	NB	CB	I1: I/NB	I-2
P = Principal Permitted Use C = Conditional Use	Single Family Residential	Two Family Residential	Multiple Family Residential	Neighborhood Business	Central Business	Industrial/ Neighborhood Business	Industrial
Restaurant, Standard				P	P	P	
Financial Establishments				P	P	P	
Commercial Planned Unit Developments				P	P	P	
Nurseries and Garden Supply Stores/Greenhouse				P	P	P	P
Funeral Homes				P	P	P	
Animal Hospitals, Veterinary Clinics and Kennels, Animal Grooming, Pet Shops				P	P	P	
Private Schools	C	C	C	P	P	P	
Bowling Alley				P	P	P	
Arcade, Pool Hall				P	P	P	
<b>ROAD SERVICE AND COMMERCIAL ENTERTAINMENT USES</b>							
Automobile Service Stations				P	P	P	
Fraternal and Social Association Facility				P	P	P	
Convenience Store				P	P	P	
Motels and Hotels				P	P	P	
Printing, Publishing, Lithographing, and Binding Establishments				P	P	P	
Self-Service Storage Facility				P	P	P	
Automobile Repair, Painting, and Body Shops					P	P	P
Service Garage					P	C	P
Automobile Washing Facilities				P	P	P	
Bars, Taverns, and Nightclubs				P	P	C	
Commercial Entertainment Facilities					C	C	
Vehicle Sales, Rental, and Service				P	P	P	
Carry-Outs, Mini-Market and Drive-Through, and Drive-In Stores				P	P	P	
Restaurants, Fast Food				P	P	P	
Commercial Recreation Facilities				P	P	P	
Farm Implement Sales				P	P	P	
Grain Bins and Grain Elevator					C	C	

USE	ZONING DISTRICT						
	R-1	R-2	R-3	NB	CB	I1: I/NB	I-2
P = Principal Permitted Use C = Conditional Use	Single Family Residential	Two Family Residential	Multiple Family Residential	Neighborhood Business	Central Business	Industrial/ Neighborhood Business	Industrial
Adult Entertainment Facilities					C	C	
<b>LIGHT INDUSTRIAL USES</b>							
Construction Trades and Contractor Offices				C	P	P	P
Building Services and Supplies				C	P	P	P
Plumbing and Heating Shops				C	P	P	P
Wholesale Distributors					P	P	P
Lumber Yards and Building Materials Sale and Storage						P	P
Warehouses						P	P
Heavy Equipment Rental, Sales, Service, and Storage						P	P
Transportation Terminals						P	P
Public Service Yards and Garages						P	P
Public Utilities						P	P
<b>HEAVY INDUSTRIAL USES</b>							
Planned Industrial Development						C	C
Enclosed Industrial						P	P
Open Industrial						C	

#### 412 Height Limits

Height limitations stipulated elsewhere in this Zoning Ordinance shall not apply:

- A. To barns, silos, or other farm buildings or structures provided these are not less than fifty (50) feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, masts and aerials; to parapet walls extending not more than four (4) feet above the limiting height of the building.
- B. To places of public assembly in church, schools and other permitted public and semi-public buildings; provided that these are located on the first floor of such building and provided that for each three (3) feet by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.
- C. To bulkheads, elevator penthouses, water tanks, monitors, scenery lofts, towers and monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures when the manufacturing process requires a greater height; provided, however, that all such structures above the heights otherwise permitted in the district shall not occupy more than twenty-five (25) percent of the area of the lot and shall be distanced not less than twenty-five (25) feet in all parts from every lot line.

## ARTICLE 5 SUPPLEMENTAL DISTRICT REGULATIONS

### 501 Intent

The purpose of Supplemental District Regulations is to set specific conditions for various uses, classifications of uses, or areas wherein problems may occur, in order to alleviate or preclude such problems, and to promote the harmonious exercise of property rights without conflict.

### 502 Accessory Uses

- A. It is the purpose of this Zoning Code to regulate Accessory Uses in order to promote public health, safety, and welfare. It is the intent of these Sections to permit such uses to be established and maintained in a manner which makes them compatible with principal uses and harmonious with uses upon adjacent properties.
- B. Except as otherwise provided in this Zoning Code, an accessory use or structure shall be permitted in association with a principal use or structure provided that:
  1. The combined building footprint of all accessory structures shall be as follows:
    - a. Lots up to 3 acres= 1,200 square feet maximum
    - b. Lots more than 3 acres= 5,000 square feet maximum
    - c. Decks and detached garages shall be located in the rear yard
  2. It shall not contain or be used as a dwelling unit.
  3. It shall meet all yard requirements of the principal use, except rear yards shall be no closer than 10 feet and no closer than 10 feet from a side yard or recorded easement. However, driveways can be up to any property line where there is no recorded easement.
  4. Front decks and/or porches shall maintain required setbacks
  5. No accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building (except contractors' temporary building).
  6. No accessory structure shall be permitted in the required front yard. For lots that are on a corner with two fronting streets, no part of any accessory building on such corner lot shall be nearer a side street lot line than 25 feet and in no case shall any part of such accessory building be nearer to the side street lot line than the least width of the side yard required for a principal building. (exception-fences see Section 150.309)
    - a. Children's swing set/playsets and trampolines are permitted in rear yard only and shall comply with all setback requirements of subpart B(7) of this section. No permit for said swing set/playset or trampoline shall be required.
    - b. Temporary contractor structures shall be permitted from 30 days prior construction start to 30 days after certificate of occupancy.
  7. Permanently attaching any accessory building or structure to a primary building in any way shall be considered a conversion and shall be subject to all required setbacks for primary structures.

8. Accessory structures shall blend architecturally with other construction on the property.
- C. Retail sales and services are permitted as accessory uses when clearly incidental to the principal use. Incidental sales and services mean the property or service is used infrequently or for a limited amount of time. A permit for temporary use shall be obtained to outline the amount of time the retail sale or service is allowed to operate.
  - D. This shall not apply to grain bins or grain elevators which are authorized as conditional uses in an I Industrial District.
  - E. The following accessory uses are permitted in each Residential District via obtaining a permit:
    1. Private garages or carports
    2. A structure for storage incidental to a permitted use
    3. A swimming pool, bath house, and other recreational facilities designed for the use of the occupants of a single-family dwelling and their guests. Swimming pools shall comply with this Zoning Regulation Article 5, Section 517.
    4. A child's playhouse (over 50 sq ft), tree house, flag poles, fences, walls over 4 feet.
    5. Items permitted that do NOT require a zoning permit include (but are not limited to): Statuary, arbors, trellises, barbecue equipment, non-mechanical laundry drying equipment, walls (under 4 ft.) and hedges, play equipment, etc.
    6. Any other structure or use customarily found in conjunction with and required for full utilization and enjoyment of the principal use, and which meets the definition of accessory use.
    7. Solar Panels
      - a. All solar panels require a zoning permit.
      - b. Roof-mounted solar panels visible from the public right-of-way shall be flush-mounted to the roof or may be elevated on one side of the panel to a distance not exceeding six inches measured from the roof to the top of the panel.
      - c. Roof-mounted solar panels not visible from the public right-of-way shall not be elevated from the roof surface more than two feet.
      - d. Roof-mounted solar panels shall not count toward the maximum number of accessory structures permitted on a property
      - e. Freestanding solar panels shall be limited to a maximum height of five feet and shall be located in the Rear Yard only. Such freestanding solar panels shall count toward the maximum number of accessory structures permitted on a property.
  - F. Exempted Structures
    1. Any person constructing one or more accessory structures having an accumulated total floor area of not more than one hundred (100) square feet shall be exempt from the need to obtain a zoning certificate for any such accessory structures. However, the placement of any such accessory structure shall be required to be in conformance with all applicable setbacks and location restrictions contained in this zoning ordinance.
  - G. Permitted Accessory Uses – Business and Industrial Districts

1. In a Business of Industrial District, any use which is customarily found in conjunction with and required for the full utilization and economic viability of the principle use which meets the definition of accessory use and which complies to the applicable standards of the district in which it is located, is permitted.

#### H. Accessory Uses Not Permitted – Residential District

None of the following shall be permitted as an accessory use in a Residential District:

1. Overnight parking or outdoor storage of buses or mobile homes are permitted for a period of 72 hours continuously. After 72 hours, they must be removed from the premises.
2. Outdoor storage, unless specifically permitted by the specific zoning district regulations.

#### I. Standards

1. Not more than two (2) accessory buildings or structures shall be permitted on a single residential lot.
2. An accessory building may be erected as an integral part of a principal building, or it may be connected thereto by a breezeway or other similar structure.
3. An accessory building may be erected, detached from the principal building. No detached accessory building shall be erected in any requiring yard or court, except a rear yard, and shall not occupy more than thirty (30) percent of the area of the required rear yard.
4. For computing the percentage of occupancy of a rear yard, as required in Subsection (2) hereof, if a detached accessory building by a breezeway, it shall be considered as a part of the accessory building and be included in the computation.
5. A detached accessory building shall not exceed twenty-five (25) feet in height.
6. A detached accessory building shall be at least Ten (10) feet from the side or rear lot lines.
7. On a corner lot abutting in the rear, the side lot line of a lot in a Residential District, any accessory building or part thereof within twenty-five (25) feet of the common lot line shall not be closer to the side street lot line than the least depth of the front yard required on such other lot fronting the side street; and in no case shall any part of such accessory building be closer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory.
8. If not located in the rear yard, shall be an integral part of, or connected with, the principal building to which it is accessory; and shall be so placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as said accessory building.

#### 503 Garage Sale (including a patio, basement, yard or block sale)

The sale or offering for sale over five (5) items of personal property to the general public on any portion of a lot principally used for residential purposes, or accessory to an adjacent residence, whether occurring within or outside any building.

Garage sales (including patio, basement, yard or block sales) may be held from 8:00 a.m. to sundown, providing:

- A. A valid permit is obtained.
- B. No sale may extend for more than three consecutive days (or portion thereof).
- C. No more than two (2) garage sales per dwelling unit may be held on any such zoning lot in any calendar year (in addition to Memorial Day and Labor Day which are “free garage sale days”).
- D. No person conducting a garage sale under the provisions of this Article shall sell or offer for sale and food or beverage for consumption on the premises. Food or beverage may be provided for such consumption at no cost to the consumer, but only if a permit is obtained in advance from the Board of Health of Brown County.
- E. No fee or other charge shall be imposed upon members of the public attending any such sale.
- F. One non-illuminated sign not exceeding four (4) square feet in size, nor more than three (3) feet in height above grade may be displayed on the property where the sale is being held.
- G. Off-premise directional-type signs may be permitted provided they do not exceed four (4) square feet per sign and not more than three (3) feet in height. All signs shall be removed within twenty-four (24) hours following the conclusion of the garage sale.
- H. Balloons, streamers, special lighting, noise-making devices or other similar advertising displays or notices shall not be used to call attention to the garage sale.

#### 504 Radio and Television Antenna Regulations

Radio and television antennas shall be permitted as an Accessory Use in all zone districts, and are subject to requirements as follows:

- A. Ground-mounted antenna systems installed in residential districts shall be limited to side and rear yard areas except for guy wires and antenna elements.
- B. Setbacks for all antenna system installations shall be a minimum of 6 feet from any property line and of a sufficient safe distance from all overhead and/or underground power lines as determined by the Building Inspector. Placement of antenna systems within an easement shall be prohibited. No portion of the antenna system shall extend beyond the property line.
- C. Roof-mounted antenna systems shall be located on the rearward portion of the roof as viewed from the front yard and shall be limited to a maximum height of 4 feet above the highest roof peak. Roof installations shall be mounted in accordance with manufacturer's recommendations and be properly secured to prevent damage from wind and snow loads.
- D. Ground-mounted antenna systems in residential and business/commercial districts shall not exceed a maximum overall height of 50/60 feet. Maximum overall height for ground-mounted TV antenna systems shall not exceed 15 feet above the highest roof peak of the principal structure or 50/60 feet total, whichever is least.
- E. All antenna systems shall be properly grounded, resistant to lightning strikes, and meet all Electrical Code requirements.
- F. All antenna systems shall be noncorrosive, designed, engineered, and permanently installed to withstand wind and snow loads specified by the Ohio Basic Building Code.

## 505 Buffer and Transition between Residential/Commercial and Residential/Industrial Zoned Properties

- A. Under those circumstances where the development of either a single-family residential project is proposed to occur adjacent to or abutting property zoned and/or used for industrial or commercial purposes, or in the case where an industrial or commercial project is proposed to occur adjacent to or abutting property zoned or used for single-family residential purposes, the owner or developer of the project must undertake improvements to provide for the creation of a suitable transition and buffer between the noncompatible uses. The purpose of the buffer is to obscure noncompatible uses and diminish the impact that the industrial or commercial activity may have on the environment found in the single-family residential area. It is intended to protect the interest of the existing or future occupant of the residential area. This requirement would only be triggered when new development occurs; it does not apply to existing conditions.
- B. The following provisions shall apply with respect to screening:
  1. Screening shall be provided for one or more of the following purposes:
    - a. A visual barrier to partially or completely obstruct the view of structures or activities.
    - b. An acoustic screen to aid in absorbing or deflecting noise.
    - c. A physical barrier to contain debris and litter.
  2. Screening may consist of one of the following, or a combination of two or more, as determined by the Zoning Inspector, or Board of Zoning Appeals, in the event of an appeal, variance, or conditional use:
    - a. A solid masonry wall.
    - b. A solidly constructed decorative fence.
    - c. A louvered fence.
    - d. A dense vegetative planting.
    - e. Landscaped mounding
  3. Height of screening shall be in accordance with the following:
    - a. Visual screening walls, fences, plantings, or mounds shall be a minimum of 6 feet high in order to accomplish the desired screening effect, except in required front and side yards where the maximum height shall not be greater than 3-1/2 feet. Fences in front yards are not permitted to be solid fences. Plantings shall be minimum of 4 feet in height at the time of planting.
    - b. A dense vegetative planting with a minimum height of 4 feet at planting and a mature height of at least 6 feet or greater, or a solidly constructed decorative fence, shall be permanently maintained along the mutual boundary of an accessory parking area and adjacent land zoned for residential uses, except for the portion of such boundary located within a required front yard.
  4. Screening for purposes of absorbing or deflecting noise shall have a depth of at least 15 feet of dense planting or a solid masonry wall in combination with decorative plantings. The height shall be 6 feet.



5. Whenever required screening is adjacent to parking areas or driveways, such screening shall be protected by bumper blocks, posts, or curbing to avoid damage by vehicles.
6. All screening shall be trimmed, maintained in good condition, and free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles.
7. The installation of the buffer and transition area must not interfere with existing storm water drainage flow patterns or utilities which may be located within easement areas, unless suitable measures are undertaken to alleviate problems that might be caused by the installation of the buffer.
8. The buffer must commence on the lot line between the subject properties, unless precluded by insurmountable problems posed by the location of utilities or easements, on the property which is subject to development. If insurmountable conditions prohibit the commencement of the buffer and transition area on the property line, the commencement shall occur in an area as close as possible to the common lot line. The Zoning Inspector may permit the installation of the obscuring wall on the opposite side of an alley, street, or right-of-way when mutually agreeable to the affected property owners.

#### **506 Principal Building Per Lot**

Only one principal building shall be permitted on each lot in any R1 and R2 District, subject to the provisions established in each district. However, in all districts permitting enclosed light or heavy industrial uses, it is permissible to erect more than one principal building devoted to such industrial use on the same lot. The development of Planned Unit Developments, as well as approved site plans, shall also be exempt from this provision.

#### **507 Parking and Storage of Vehicles and Trailers**

All automotive vehicles or trailers of any type must be operable with current license plates or shall be parked or stored in an area completely screened from public streets or adjoining property.

#### **508 Parking and Storage of Vehicles, recreational vehicles, Watercraft, Dirt Bikes, Motorized Sport Vehicles, Trailers, Utility Trailers, Commercial Vehicles, etc.**

##### **A. Non-Commercial Vehicles:**

1. In any residential district or any residential home in a commercial district; no trailer(s), aircraft, tractor, agriculture equipment, or machinery, nor any truck larger than 10,000 lb. GVWR (Gross Vehicle Weight Rating), shall be parked on a public right of way for more than 72 hours and no such items shall be stored or parked in any front yard area, unless otherwise prohibited.
2. Such items must be at least 3 feet from any lot line while items are parked or stored in a side or back yard.
3. Items are prohibited from being parked in the front yard. Items can be parked or stored on the side or back yard areas.

##### **B. Commercial Vehicles**

1. Residential Districts:

- a. No commercial vehicle(s) over 10,000 GVWR, including commercial tractors, trucks, buses, manufactured home, semi-trailers shall be parked on a public right of way for more than 72 hours and no such items shall be parked or stored in a front yard area.

2. Commercial Districts:

- a. In a commercial area, vehicles that are owned by the property owner or the vehicles where the arrangement has been made between the property owner and the owner of the vehicle may be parked.
- b. Parking of semi-trailers is permitted in a commercial district or commercial area only in specified loading and unloading zones. (See Section 150.610)

C. Recreational Vehicles:

1. In any residentially zoned district(s) and any single, two family, or multifamily dwellings located in a commercial or industrial zoned district such recreational vehicle(s), recreational trailer, etc. shall not be parked or stored in a front yard area or the public right of way.
2. Parking of a recreational vehicle, motor home, or camper shall be permitted in a driveway for no more than 72 hours. This time period allows for preseason preparations, required in season repair/maintenance and after season preparations.
3. Such recreational vehicles parked or stored shall not have a fixed connection to electricity, gas, water, or sanitary sewer facilities, and no person shall occupy any recreational vehicle or motor home or camper for more than 72 hours.
4. Items parked after 72 hours must be removed from the front yard area for a minimum of 3 full days before a new 72-hour parking limitation can begin. Items can be parked or stored on the side or back yard areas.
5. Time limit also applies to guests or visitors.
6. Such items must be at least 3 feet from any lot line while items are parked or stored in a side or back yard and area 25 feet or more from the right-of-way.

## 509 Required Refuse Collection Areas

The refuse collection areas provided by all multi-family residential, business/commercial, and industrial uses for the collection of trash, garbage, and other refuse shall be enclosed on three sides by a solid wall, fence, or shrubbery of at least 6 feet in height, unless within an enclosed building or structure. Provisions shall be made for regular and adequate vehicular access to such areas for collection purposes, as determined necessary by the Village Administrator/Zoning Inspector. Storage areas of proper density in residential districts shall utilize such additional screening as required in this Zoning Code.

## 510 Fences

- A. Fences constructed within a rear or side yard shall not be higher than 8 feet and those within a front yard shall not be higher than 4 feet. Fences located in rear yards that are adjacent to the interstate highway may exceed 6 feet in height but may be no more than 8 feet in height. On corner lots in the front yard, the fence shall not be higher than 2 ½ feet. All fences are considered an accessory structure. No fence shall include or employ any parts or elements

which revolve, rotate, whirl, spin, or otherwise make use of motion or attract attention. Low voltage or solar lights are permitted. This section shall not apply to temporary holiday decorations.

- B. No fence, wall, or hedge shall rise over 4 feet in height on any required front yard, except corner lots which shall not rise over 2 ½ feet. Front yard fences are not permitted to be solid fences (unable to be seen through). No fence, wall, or hedge planting shall interfere with visibility from a driveway or public right of way. The Zoning Inspector is hereby empowered to cause all obstructions to be removed in the interest of public safety.
- C. All support structures to face to the inside unless the design of the fence is unable to allow support structures to be inside (e.g., vinyl fence)
- D. Fences, walls, and hedges shall not encroach upon right of ways. The property owner is responsible for the location of the fence in regard to the property line, easements, and any other issues that may result.
- E. All fence installation or modification requires a Zoning Permit.

### **511 Visibility at Intersections**

Vision clearance as defined in these Regulations is required on all corner lots at the street corner. The Village Administrator/Zoning Inspector is hereby empowered to cause all obstructions to be removed in the interest of public safety. In any district on any corner lot, no fence, or planting shall be erected or maintained within twenty (20) feet of the right-of-way line if it interferes with traffic visibility across the corner.

### **512 Reduction of Area or Space**

No lot, yard, court, parking area or other space shall be reduced in area or dimension, thereby making said area or dimension less than minimum required by this Zoning Ordinance, and, if already less than the minimum required by this Zoning Ordinance, said area or dimension shall not be further reduced. No part of a yard, court, parking area, or other space provided about, or for, any building or structure for the purpose of complying with the provisions of this Zoning Ordinance, shall be included as part of a yard, court, parking area or other space required under this Zoning Ordinance, for another building or structure.

### **513 Temporary Uses**

The following regulations are necessary to govern certain uses which are of a non-permanent nature. For such uses requiring a Temporary Use Permit, at least 7 days before the instigation of such use an application for a Temporary Use Permit shall be made to the Village Administrator/Zoning Inspector, which shall contain a graphic description of the property to be used, a description of the proposed use, and a site plan, with sufficient information to determine the yard, setback, parking, and sanitary facility requirements for the proposed temporary use.

Temporary uses of public land are exempt from the requirements of this Section.

The following uses are deemed to be temporary uses and shall be subject to the specified regulations and time limits which follow, as well as the regulations of any district in which they are located:

- A. Real estate sales offices, which shall contain no living accommodations, shall be permitted within any district for any new subdivision for a period of 1 year, except that two 6-month extensions each may be granted if conditions warrant. Such offices shall be removed upon the completion of the sales of the lots therein, or upon the expiration of the Temporary Use Permit, whichever occurs first.
- B. Temporary buildings, offices, and equipment and storage facilities required in conjunction with construction activity may be permitted within any district for a period of 1 year, except that 6-month extensions may be granted if construction is substantially underway. Such uses shall be removed immediately upon completion of the construction, or upon expiration of the Temporary Use Permit, whichever occurs first.
- C. Temporary sales and services may be permitted within parking areas within any commercial district. A Zoning Permit valid for a period not to exceed 4 consecutive days shall only be issued three times within any 12-month period to any individual or organization. The application for the Temporary Use Permit shall be accompanied by written permission of the property owners and shall be prominently displayed at the site. The Village Administrator/Zoning Inspector shall not issue a permit for such temporary use if he determines that it encroaches upon more than 25% of the required parking area.
- D. Temporary retail sales and services, such as the sale of plants, flowers, arts and crafts, farm produce, or similar items on lots other than parking lots, including any lot on which an existing business is operating or on which a business is vacated, may be permitted for any for-profit individuals or organizations in any commercial district. A Temporary Use Permit valid for a period not to exceed 2 consecutive days shall only be issued three separate times for any particular lot within any 12-month period, and not more than one permit may be issued at the same time for any lot. The applicant must submit a current vendor's license or transient vendor's license, and a written statement from the property owner giving permission for such use. This section shall not be interpreted to prohibit any such use in any case where a valid covenant or deed restriction specifically authorizes such use. In any case, the Temporary Use Permit shall be prominently displayed at the site.

#### 514 Swimming Pools/Ponds

##### A. Swimming Pools/Ponds

A private swimming pool or pond shall be any pool, pond, lake or open tank not within an enclosed building capable of containing a water depth of more than 18 inches and/or has a maximum total surface of more than 350 square feet. It does not include a river stream, ditch, or manmade earthen basin made naturally or constructed and maintained for the purpose of storing or retaining storm water.

All swimming pools/ponds must comply with the following requirements:

1. The swimming pool/pond is intended to be used and is used solely for the enjoyment of the occupants of the property on which it is located and their guests.
2. The swimming pool/pond may be located anywhere on the premises except in required front yards, provided that it shall not be located closer than 10 feet to any property line or easement.
3. The swimming pool/pond, or the entire property upon which it is located, shall be walled or fenced in such a manner as to prevent uncontrolled access by children from

the street and from adjacent properties. The fence shall be 4 feet in height, and it shall be maintained in good condition with a self-closing latching gate and lock. Above ground pools that have integral fences or railings and have a swing up securing/locking ladder is acceptable in lieu of fence.

4. The Owner must obtain a Zoning Permit
  5. Any person having a swimming pool/pond on their property shall maintain a policy of liability insurance on said property.
- B. Temporary Private Pools

A temporary private pool is an inflatable pool or device intended for the sole noncommercial use and enjoyment of the occupants of the principal use property and which has a minimum water depth of 18 inches and a maximum water depth of 36 inches.

1. So long as the Temporary Private Pool has a manufacturer's specified cover, no fence shall be required to limit access to the pool. If the pool does not have a manufacturer's specified cover, then the occupant must abide by the fencing requirements of Section 150.313(1)(C).
2. No temporary private swimming pools shall be located in any front yard, driveway or other area other than the rear area of the property. No temporary private pool shall be erected within 10 feet of a lot line or easement.
3. No temporary private swimming pool shall be installed prior to May 1 and must be removed by October 1 of the same calendar year in which it is installed. Between October 2 and April 31 all temporary private swimming pools must be stored in an enclosed place.
4. Any person having a temporary private pool on their property shall maintain a policy of liability insurance on said property.

## 515 Home Occupations

- A. Customary Home Occupations: Customary home occupations such as handicraft, dressmaking, millinery, laundering, preserving and home cooking, provided that such occupation shall be conducted solely by resident occupants in their residence.
- B. Home occupations may be conditionally permitted at any residence regardless of the zoning classification.
- C. Only members of the immediate family occupying such dwelling shall be employed in such occupation.
- D. The use of the dwelling unit for the home occupation shall be clearly subordinate to its use for residential purposes by its occupants, and only the first floor and not more than 25% of the first floor of the principal structure shall be used in conducting the home occupation.
- E. There shall be no change in the outside appearance of the building or premises, that no such residence shall require internal or external alterations or involve construction features or the use of mechanical equipment not customary in dwellings, and that the entrance to the space devoted to such use shall be from within the dwelling or other visible evidence of conducting the home occupation other than one sign, not exceeding 6 square feet in area, non-illuminated,

and not located on or projecting over any right-of-way and mounted flat against the wall of the building.

- F. No electrical or mechanical equipment shall be used except such as may be used for domestic or household purposes or as deemed by the BZA to be of similar power and type, unless authorized by the BZA. The BZA may authorize machinery or equipment which is customarily found in the home associated with a hobby or avocation not conducted for gain or profit and may limit the hours or operation of such equipment or machinery. In addition, electrical or mechanical equipment which creates visible or audible interference in radio or television receivers or causes fluctuation in line voltage outside the dwelling unit or which creates noise not normally associated with residential uses shall be prohibited.
- G. No offensive noise, vibration, smoke, or other particulate matter, odorous matter, heat, humidity, glare, or other objectionable effect shall be produced therein or therefrom.
- H. No additional parking demand shall be created.
- I. The following uses shall be prohibited as home occupations:
  - 1. Appliance repair;
  - 2. Light assembly, manufacturing, or fabricating;
  - 3. Motor vehicle repair, sales, disassembling, part distribution, painting or auto body work, including upholstery, detailing, or washing;
  - 4. Small engine repair, lawn and garden equipment repair;
  - 5. Veterinary offices, kennels;
  - 6. Warehousing of any type; and welding or machine shop.
- J. All home occupation owners and employees shall be registered for Village Income Tax.
- K. All home occupations require a Zoning Permit.

#### 516 Nuisance Performance Standards

No land or structure, in any district, shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard, including potential hazards; noise or vibration; smoke, dust, odor, or other form of air pollution; heat, cold, dampness, electrical, or other substance, condition, or element; in such a manner or in such amount as to adversely affect the adjoining lots or surrounding areas.

The following minimum standards shall apply to all uses:

- A. Fire and Explosion Hazards: All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion, such safety devices being standard in the industry. Burning of waste materials in open fire is prohibited at any point. There shall be no open fire in residential zoning at any time. The only exception is open burning with prior notification to the Fire Department, the Village Administrator, and the Brown County General Health District for either the prevention or control of disease or pests or for ceremonial purposes. Ceremonial fires shall be less than 5 feet by 5 feet and shall burn no longer than 3 hours. Fires allowed by this Section shall not be used to

burn garbage, landscape waste or any other waste material. The fuel used shall be a clean fuel, which is fuel chosen to minimize the generation and emission of air contaminants.

- B. Fly Ash, Dust, Fumes, Vapors, Gases, and Other Forms of Air Pollution: No emission of air pollutants shall be permitted which violates the minimum requirements of the Brown County Department of Health. Dust and other airborne pollutants shall be minimized through the paving or landscaping of the lot area around any building.
- C. Glare, Heat, and Exterior Light: Any operation producing intense light or heat, such as high temperature processes like combustion, welding, or otherwise, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted. No exterior lighting shall be positioned so as to extend light or glare onto adjacent properties or rights-of-way.
- D. Liquid or Solid Wastes: No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, or otherwise cause the emission of dangerous or offensive elements, shall be permitted, except in accord with standards approved by the Ohio Department of Health or such other governmental agency as shall have jurisdiction of such activities.
- E. Noxious Gases: Processes and operations of permitted uses capable of dispersing gases or toxic particulates into the atmosphere shall be hooded or otherwise suitably enclosed. The emission of such toxic gases or particulate matter shall be from a stack.
- F. Vibrations and Noise: No uses shall be located, and no equipment shall be installed in such a way to produce intense, earth-shaking vibrations which are discernable without instruments at the property lines of the subject premises. Noise standards of the Environmental Protection Agency shall be adhered to.
- G. Odor: Any use, activity, or operation which releases odors to the atmosphere shall be so controlled as to ensure that it will produce no public nuisance or hazard at or beyond the nearest lot line.

## 517 Environmental Performance Standards

Environmental performance standards are regulations which are intended to promote a peaceful and quiet environment. Restrictions or limits are established on uses or facilities whose environmental factors may create a nuisance or cause a noxious, objectionable, or other undesirable effect on persons or properties outside of the subject property. These restrictions apply to a uses' construction as well as its operation. Materials and/or products of a use shall be maintained in a method so that the health, safety, and welfare of persons occupying the subject property or adjacent properties are not jeopardized.

### A. Applicability and Compliance

The Environmental Performance Standards are applicable to all land uses in all zoning districts in the Village of Mt. Orab, and both initial and continued compliance is required. Any condition or land use falling under the jurisdiction of the standards of this Ordinance at the time of its adoption and not in conformance with these standards shall be brought in full compliance immediately upon discontinuance of the existing use of land, structure or building. Any change

in the principal use of land, structure or building shall constitute a discontinuance and be fully subject to these standards and provisions.

B. Noise

Refer to *Appendix A* at the end of this zoning code, which is Ordinance 975 governing all regulation of noise in the Village of Mt. Orab.

**518 Residential Design and Appearance Standards**

Single-Family, Two-Family, and Multi-Family residential dwellings and accessory buildings when located in a residential zone whether of modular or site-built construction, shall comply with the following design and appearance standards:

- A. The structure is affixed to a permanent foundation and is connected to appropriate utilities. All dwellings hereafter erected including all modular homes shall have a continuous masonry foundation extending from ground level to the bottom-most portion of the first floor.

**519 Animals**

No animals, birds, insects, reptiles, livestock, or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats, or other household pets, which are kept for domestic purposes only, and are not kept, bred, or maintained for any commercial purposes. No more than Three dogs and Three cats may be kept on any lot, except such dogs or cats, in excess of such numbers are less than 6 months of age. All animals must be restrained on the owner's lot and owners shall take all steps necessary to ensure the same.

**520 Adult Entertainment Facilities**

A. Intent

This Section is based upon the Village of Mt. Orab's recognition of certain possible adverse secondary effects of adult entertainment facilities and thereby protects the health, safety, and welfare of the citizens; protects the citizens from increased crime; preserves the quality of life; preserves the property values and the character of surrounding neighborhoods and businesses; deters the spread of urban blight and protects against the threat to health from the spread of communicable and social diseases.

B. Definitions

Specific words and terms as used in this Section are defined as follows:

1. Adult bookstore, adult novelty store, or adult video store means an establishment, from which minors are excluded, having as a substantial or significant portion of its stock for trade, sale, or rental of the following:
  - a. Books, magazines, other periodicals or printed material, photograph films, motion pictures, films, video cassettes, slides, computer media, or other visual representations which are characterized by depiction or description of "specified sexual activities" or "specified anatomical areas", which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas".



- b. Instruments, devices, or paraphernalia which is designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
  - c. An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas", and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas".
2. Adult cabaret means a nightclub, bar, restaurant, "bottle club", or similar commercial establishment, whether or not alcoholic beverages are served, which features:
    - a. Persons who appear nude or in a state of nudity or semi nudity;
    - b. Live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas"; or
    - c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".
  3. Adult drive-in theater means a drive in theater for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas", for observation by patrons.
  4. Adult entertainment means performances by topless and/or bottomless dancers, strippers or similar entertainers, where such performances are characterized by the display or exposure of specified anatomical areas or specified sexual activities.
  5. Adult entertainment facilities means any of the following uses: adult bookstores, adult novelty stores, adult video stores, adult drive-in theaters, adult photography studios, adult cabarets, massage establishments, finger-painting studios, adult motels, adult motion picture theaters, or any other similar personal service or entertainment facilities which emphasize nudity and/or sexual activities as an entertainment medium.
  6. Adult motel means a motel, hotel, or similar commercial establishment which:
    - a. Offers public accommodations, for any form of consideration, which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertise the availability of this sexually-oriented type of material by means of a sign visible from a public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets, or leaflets, radios, or televisions; or
    - b. Offers a sleeping room for rent for a period of less than ten hours; or

- c. Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten hours.
7. Adult mini motion picture theater means an enclosed building with a capacity of less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
  8. Adult motion picture theater means an enclosed building with a capacity of fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
  9. Mainstream performance house means a theater, concert hall, auditorium, or similar establishment, which regularly features movies or live performances such as plays or concerts which are not distinguished or characterized by an emphasis on the depiction, description, or display or the featuring of "specified anatomical areas" or "specified sexual activities" and where such depiction, if any, is only incidental to the primary purpose of any performance.
  10. Nude model studio means a place where a person, who regularly appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
  11. Nude or state of nudity means the showing, representation, or depiction of human male or female genitals, bare buttocks, anus, or the areola or nipple of the female breast with less than full, opaque covering of any portion thereof below the top of the nipple or of uncovered male genitals in a discernibly turgid state.
  12. Semi-nude means a state of dress in which the clothing covers no more than the genitals, pubic region and the areola of the female breast, as well as portions of the body covered by supporting straps or devices.
  13. Specified anatomical area means less than completely and opaquely covered human genitals, pubic region, buttocks, or the areola or nipple of the female breast; human male genitals in a discernibly turgid state even if completely and opaquely covered.
  14. Specified sexual activities means human genitals in a state of sexual stimulation or arousal; acts, real or simulated, of human fondling, sexual intercourse, sodomy, cunnilingus, or fellatio; fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

C. Regulations

Adult entertainment facilities and like uses, shall be a conditional use within a GB- General Business District and subject to the following conditions:

1. No adult entertainment facility shall be established within 500 feet of any area zoned for residential use.
2. No adult entertainment facility shall be established within a radius of 1,000 feet of any school, library, or teaching facility, whether public or private, governmental, or

commercial, which includes schools, libraries, or teaching facilities if attended by persons under 18 years of age.

3. No adult entertainment facility shall be established within a radius of 1,000 feet of any park, recreational facility, or camp attended by persons under 18 years of age.
4. No adult entertainment facility shall be established within a radius of 500 feet of any other adult entertainment facility or within a radius of 500 feet of any two of the following establishments (or of any one establishment which combines to any degree any two of the following activities), whether within Mt. Orab or any other political subdivision:
  - a. Establishments for the sale of beer or intoxicating liquor for consumption on the premises.
  - b. Pawn shops.
  - c. Pool or billiard halls.
  - d. Pinball palaces, halls, or arcades.
  - e. Dance halls or discotheques.
5. No adult entertainment facility shall be established within a radius of 1,000 feet of any church, synagogue, or permanently established place of religious services which is attended by persons under 18 years of age.
6. All building openings, entries, windows, etc., for adult uses shall be located, covered, or surfaced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk, or street. For new construction, the building shall be oriented to minimize any possibility of viewing the interior from public or semi-public areas.
7. In granting any such conditional use, the BZA may prescribe any conditions that it deems necessary in the public interest. However, no conditional use shall be approved by the BZA unless it finds that the use for which such approval is sought, is not likely to be dangerous or detrimental to nearby properties, that the use will not be contrary to any program of conservation, or improvement, either residential or nonresidential, or be contrary to the public safety, and general welfare of Mt. Orab.
8. The measure of distances for purposes of this Section shall be from property line to property line along the shortest possible course, regardless of any customary or common route or path of travel, i.e., "as the crow flies".
9. Nothing contained in this Code shall apply to the premises of any mainstream performance house or museum.
10. Any establishment offering live dancing performances shall adhere to the following regulations:
  - a. The dancing performances shall be confined to a clearly defined stage or platform area that is elevated at least two feet above the normal floor elevation of the establishment.
  - b. There shall be a clearly defined and delineated three foot "buffer" area or space between the aforesaid stage or platform and any area of the establishment in which customers are customarily seated and/or served.

- c. Said "buffer" zone shall be clearly and permanently delineated by rail, rope, enclosure, or other similar means.
- d. All dancing or entertainment shall be confined to the stage or platform area as defined herein.
- e. At no time during the performance shall the patrons or the entertainers be permitted to encroach on the aforescribed "buffer" zone.
- f. The entertainers and patrons are prohibited from commingling with or touching one another while the entertainers are on stage or platform.

D. Savings Clause

If any sentence, clause, or part of this Section is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this Section and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of the Trustees that this Section would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included.

**521 Automobile Washing Facilities**

- A. All washing activities shall be carried out within a building.
- B. The minimum lot size shall be 15,000 square feet, with no less than 100 feet of frontage.
- C. Automobile washing structures shall be located at least 50 feet from any adjoining residential property and shall be no closer than ten feet from side property lines.
- D. Vacuuming or steam cleaning equipment may be located outside a building but shall not be placed closer than 50 feet to any adjacent residential property and at least 20 feet from a public right of way.
- E. Water or residue from the washing process shall not be allowed to drain from the site containing such an establishment.
- F. All parking and access drives shall be hard-surfaced and dust-free.
- G. The following waiting and parking requirements shall be minimum requirements:
  - 1. A minimum of six off street waiting spaces shall be provided for every bay of a self-service washing facility, and a minimum of ten off street waiting spaces shall be provided for every bay with automatic or assembly line type washing facilities. Waiting spaces shall not block or otherwise interfere with site circulation patterns.
  - 2. A minimum of two parking spaces shall be provided at the exit end of each washing bay for drying and hand finishing of vehicles.
  - 3. One parking space for each regular employee of the premises with a minimum of two employee parking spaces for the site.
- H. A solid fence, wall, or evergreen shrubbery at least 6 feet in height shall be required when an automobile washing facility is adjacent to a Residential or Agriculture District, or adjacent to any residential property. (See Section 1129.05 Buffer and Transition Between Residential/Commercial and Residential/Industrial Zoned Properties).

- I. Access shall only be from arterial or commercial collector streets to which the automobile washing facility shall adjoin. Alleys shall not be used for access to or from an automobile washing facility, nor shall alleys be used for maneuvering, waiting, or parking purposes.

## 522 Junk

The accumulation or storage of junk or junk motor vehicles, abandoned vehicles, recreational vehicles, etc. shall be prohibited, except in an approved junk yard. These can be approved as a conditional use. (See Section 1127.00 District Regulations)

See the International Property Maintenance Code (IPMC) Chapter 3: General Requirements.

## 523 Billboards

A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than on the lot where displayed on only incidentally on such lot. All billboards require a Zoning Permit. (See Illustration – Exhibit H.)

### A. Required Conformance

All billboards within the Village of Mt. Orab shall be in accordance with the provisions of this Section.

### B. Permitted Locations

Billboards may be erected on free-standing structures and on any side or rear building wall.

### C. Number of Faces

Free-standing billboards can be double-faced, and each side shall be considered as facing traffic flowing in the opposite direction.

### D. Maximum Height

The top of a free-standing billboard shall not extend more than 25 feet above the grade of the street.

### E. Required Spacing

No billboard shall be located closer than 3000 feet to another billboard facing traffic flowing in the same direction.

### F. Maximum Sign Area

The maximum sign area permitted for a free-standing billboard shall not exceed 250 square feet of total area. The maximum sign area for a wall billboard shall not exceed 10% of the wall area or 200 square feet of total area, whichever is less.

### G. Structural Design

Structures for free-standing billboards shall be of vertical (cantilever) construction and where the back of the sign is visible, it shall be suitably painted or otherwise covered to present a neat and clean appearance.

### H. Lighting

All lighting used in the illumination of billboards shall be adequately shielded or shaded, and properly directed so as to not cast direct light upon public streets and/or adjacent and surrounding properties.

I. Required Setback from Street

All free-standing billboards shall be set back from right-of-way lines a minimum distance of 100 feet along all roadways.

J. Setback From Residential Uses and Districts

No billboard shall be located closer than 500 feet to any residential zoning district or 200 feet from any existing residential dwelling.

524 Landfills

A. Required Conditions

Landfills may be permitted as a conditional use upon submission of satisfactory proof that such operations will not be detrimental to surrounding properties or to the environment. Compliance with the requirements contained in this Section inclusive shall be guaranteed by the applicant prior to the issuance of a Conditional Use Permit.

B. Application Requirements

All Conditional Use Permit applications for landfills within the Village of Mt. Orab be accompanied by the following information, at a minimum:

1. Vicinity maps, drawn at a scale of 1 inch equal to 1,000 feet, illustrating the proposed site in relation to surrounding existing and proposed land uses, existing and proposed roads, surrounding zoning districts, and the Brown County Comprehensive Plan.
2. Topographic maps, drawn at a scale no greater than 1 inch to 200 feet with 5-foot contour intervals, showing the existing and the proposed final physiographic layout of the site.
3. A hydrogeologic and surface drainage study of the site conducted by a qualified professional engineer registered in the State of Ohio, illustrating the various depths, thicknesses, and hydrologic characteristics of underlying geologic deposits and the depth, direction of flow, and potential for contamination of the underground water supply.
4. A plan for monitoring underground water contamination.
5. A transportation plan for the site illustrating any proposed external routes or access to the landfill site and any proposed internal circulation routes within the landfill site.
6. Proposed methods of control for insects, rodents, and other disease vectors.
7. Proposed methods of controlling odor, dust, and/or blowing debris such as paper.
8. Proposed methods for screening.
9. Proposed hours of operation.
10. The location and size of proposed shelters for landfill personnel and equipment.
11. A proposed plan for future use of the site.

C. Permit To Install Required

All proposed landfill operations shall be required to secure a "Permit to Install" from the OEPA prior to the Conditional Use Permit becoming effective.

D. Screening

The site shall contain mounding or screening adequate to obscure the view of the landfilling operation from any public street, existing dwelling unit, or any residentially zoned property.

E. Water Pollution

The site shall be limited to areas where surface or underground water pollution will not occur.

F. Access From Residential Areas

The site shall not be accessible from any established residential area.

G. Odor Control

The site shall be so located and operated as to minimize the effects of winds carrying objectionable odors to urbanized or urbanizing areas.

H. Attendant Required

An attendant shall be on duty during the time the landfill site is open to supervise the unloading of refuse.

I. Control Of Blowing Debris

Blowing paper shall be controlled by providing a portable fence near the working area. The fence and area shall be policed daily.

J. Open Storage/Burning Prohibited

There shall be no open storage or burning of refuse or garbage.

K. Vector Control

Conditions unfavorable for the production of insects, rodents, and other disease vectors shall be maintained by carrying out routine landfill operations promptly in a systematic manner.

L. Domestic Animals Excluded

Domestic animals shall be excluded from the site.

M. Cover Layer Required Daily

A compacted layer of at least 6 inches of suitable cover material shall be placed on all exposed refuse by the end of each working day.

N. Other Required Conditions

Conditions which the BZA deems necessary to ensure that the landfill operation will not be detrimental to surrounding properties or to the environment.

O. Hazardous Waste Restriction

No hazardous waste, defined under Ohio Revised Code Section 3724.01 (I) (I) and (2), and the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806 2812, 42 U.S.C. 6921 to 6931 shall be deposited in or stored on any site designated as a landfill under Section 515 of this zoning resolution without application for and receipt of a hazardous waste storage-burial Conditional Use Permit from the Board of Appeals and submission of an operating plan by the proposed site operator to include the following information and assurance:

1. The full legal and corporate name of the site operator to include any other names used by said site operator within the past 5 years, and the names of all the officers of the said proposed operator and include detailed resumes of same indicating prior experience or expertise in the operation of a hazardous waste storage-burial facility.
2. A detailed listing of the specific types of hazardous waste to be stored on site to include chemical and generic designation and known effects on flora and fauna of same.
3. A complete fire and population evacuation plan for all areas within 5 miles of the site center.
4. A complete geologic and hydrologic study of the site showing site barrier control sufficient to prevent all off-site leachate transmission and ensure protection of all water supplies.
5. Operator shall submit the name of its waste transport company to include the type of vehicles to be used to transport the hazardous waste and the training of the driver-operators.
6. Operator shall submit a plan for the control of malodorous airborne pollutants so that no such odors are transported off site.
7. Operator/applicant shall present proof to the Board of Licensure for Hazardous Waste Storage under Section 3734.03 of the Ohio Revised Code prior to issuance of any Conditional Use Permit by the BZA.
8. Operator/applicant shall present proof of bond or surety to the sum set by Zoning Board of Appeals subject to the approval of the Village of Mt. Orab Council. Proof of bond shall be required prior to the grant of a Conditional Use Permit for hazardous waste storage in the Village of Mt. Orab.

P. Inspections and Enforcement

The Zoning Inspector or a Brown County Health Department employee may visit the site at any time and may have cause for a cease-and-desist order if the owner and/or operator of a landfill is in violation of any of the above sections or any other conditions imposed by the BZA.

## 525 Transfer Stations

A. Required Conditions

Transfer Stations may be permitted, with all operations performed inside an enclosed building, as a conditional use upon submission of satisfactory proof that such operations will not be detrimental to surrounding properties or to the environment. Compliance with the requirements contained in this Section inclusive shall be guaranteed by the applicant prior to the issuance of a Conditional Use Permit.

B. Application Requirements

All Conditional Use Permit applications for transfer stations within the Village of Mt. Orab shall be accompanied by the following information, at a minimum:

1. Vicinity maps, drawn at a scale of 1 inch equal to 1,000 feet, illustrating the proposed site in relation to surrounding existing and proposed land uses, existing and proposed roads, surrounding zoning districts, and the Brown County Comprehensive Plan.



2. Topographic maps, drawn at a scale no greater than 1 inch to 200 feet with 5-foot contour intervals, showing the existing and the proposed final physiographic layout of the site.
3. A hydrogeologic and surface drainage study of the site conducted by a qualified professional engineer registered in the State of Ohio, illustrating the various depths, thicknesses, and hydrologic characteristics of underlying geologic deposits and the depth, direction of flow, and potential for contamination of the underground water supply.
4. A plan for monitoring underground water contamination.
5. A transportation plan for the site illustrating any proposed external routes or access to the transfer and any proposed internal circulation routes within the transfer.
6. Proposed methods of control for insects, rodents, and other disease vectors.
7. Proposed methods of controlling odor, dust, and/or blowing debris such as paper.
8. Proposed methods for screening.
9. Proposed hours of operation.
10. The location and size of proposed shelters for transfer station personnel and equipment.
11. A proposed plan for future use of the site.

C. Permit To Install Required

All proposed transfer station operations shall be required to secure a "Permit to Install" from the OEPA prior to the Conditional Use Permit becoming effective.

D. Screening

The site shall contain mounding or screening adequate to obscure the view of the transfer station operation from any public street, existing dwelling unit, or any residentially zoned property.

E. Water Pollution

The site shall be limited to areas where surface or underground water pollution will not occur.

F. Access From Residential Areas

The site shall not be accessible from any established residential area.

G. Odor Control

The site shall be so located and operated as to minimize the effects of winds carrying objectionable odors to urbanized or urbanizing areas.

H. Attendant Required

An attendant shall be on duty during the time the transfer station site is open to supervise the unloading of refuse.

I. Control Of Blowing Debris

Blowing paper shall be controlled by providing a portable fence near the working area. The fence and area shall be policed daily.

J. Open Storage/Burning Prohibited

There shall be no open storage or burning of refuse or garbage.

K. Vector Control

Conditions unfavorable to produce insects, rodents, and other disease vectors shall be maintained by carrying out routine transfer station operations promptly in a systematic manner.

L. Domestic Animals Excluded

Domestic animals shall be excluded from the site.

M. Other Required Conditions

Conditions which the BZA deems necessary to ensure that the transfer station operation will not be detrimental to surrounding properties or to the environment.

N. Hazardous Waste Restriction

No hazardous waste, defined under Ohio Revised Code Section 3724.01 (I) (I) and (2), and the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806 2812, 42 U.S.C. 6921 to 6931 shall be stored on any site designated as a transfer station under this Section of this zoning resolution without application for and receipt of a Conditional Use Permit for hazardous waste storage from the BZA and submission of an operating plan by the proposed site operator to include the following information and assurance:

O. Inspections and Enforcement

The Zoning Inspector or a Brown County Health Department employee may visit the site at any time and may have cause for a cease-and-desist order if the owner and/or operator of a transfer station is in violation of any of the above sections or any other conditions imposed by the BZA.

## 526 Composting

A. Required Conditions

Composting may be permitted as a conditional use upon submission of satisfactory proof that such operations will not be detrimental to surrounding properties or to the environment. Compliance with the requirements contained in this Section inclusive shall be guaranteed by the applicant prior to the issuance of a Conditional Use Permit.

B. Application Requirements

All Conditional Use Permit applications for composting within the Village of Mt. Orab shall be accompanied by the following information, at a minimum:

1. Proposed methods of control for insects, rodents, and other disease vectors.
2. Proposed methods of controlling odor, dust, and/or blowing debris.
3. Proposed methods for screening.

C. Screening

The site shall contain mounding or screening adequate to obscure the view of the composting operation from any public street, existing dwelling unit, or any residentially zoned property.

D. Odor Control

The site shall be so located and operated as to minimize the effects of winds carrying objectionable odors to urbanized or urbanizing areas.

E. Control Of Blowing Debris

Blowing debris shall be controlled by providing a portable fence near the working area. The fence and area shall be policed daily.

F. Vector Control

Conditions unfavorable to produce insects, rodents, and other disease vectors shall be maintained by carrying out routine composting operations promptly in a systematic manner.

G. Inspections and Enforcement

The Zoning Inspector or a Brown County Health Department employee may visit the site at any time and may have cause for a cease-and-desist order if the owner and/or operator of a composting area is in violation of any of the above sections or any other conditions imposed by the BZA.

**527 Mineral and Soil Extraction**

A. Intent

The intent of this Section is to protect the health, safety, welfare, and environmental quality of the Village of Mt. Orab. Soil and mineral extractive industries can contribute to soil erosion and sedimentation of streams, traffic hazards, and may pose other ground water pollution dangers. This Section is intended to prevent or minimize these effects.

B. Definition

Soil and mineral extractive industries are those activities of removing stone, gravel, sand, soil, or other minerals from the ground through processes commonly referred to as quarrying or mining and whose primary purpose and intent is the removal of minerals as a primary product for use or sale. This Section does not refer or apply to excavations made for other primary purposes, including but not limited to, construction of sewage lagoons, manure lagoons, swimming pools, and retention ponds for canals. This exemption shall apply to this primary purpose even if the materials excavated are moved or sold as a secondary means of disposal.

C. Application Requirements

In addition to other items required on a Conditional Use Permit application, the following information shall be submitted:

1. Vicinity maps, drawn at a scale of 1-inch equals 1,000 feet, illustrating the extraction in relation to surrounding existing and proposed land uses, existing and proposed roads, and surrounding zoning districts.
2. A map at a scale of at least 1-inch equals 100 feet showing existing contours at intervals of 5 feet or less, to any existing building structures, and any public utilities of easements on the property.

3. Name and address of the applicant, including all partners and officers of the corporation.
  4. Name and address of the owner of surface rights of the property.
  5. The location, description, and size of the areas to be excavated during the first year as well as an estimate of the total anticipated area of excavation.
  6. A list of the types of resources or minerals to be extracted.
  7. The proposed method of removal of such resources and whether or not blasting and other uses of explosives if required (storage of explosives is forbidden anywhere in the Village of Mt. Orab.
  8. A study of the anticipated depth of excavations and probable effect on the existing water table, conducted by a qualified professional engineer who is registered in the State of Ohio. If the water is to be affected, the operator shall provide proof, before permission for excavation is given, the source of any public or private water supply shall not be adversely affected due to a lowering of the water table or contamination of the supply.
  9. The location of any processing plant to be used, and any accessory of kindred operations that may be utilized in connection with the operation of a processing plant by the mining processor or any other firm, person, or corporation.
  10. A general description of the equipment to be used for excavating, processing, and/or transporting excavated mineral resources.
  11. A transportation plan for the site illustrating any proposed external routes of access to the site and any proposed internal circulation routes within the site.
  12. A plan for the rehabilitation and reclamation of the excavated area as specified in this Section; and any other information the BZA may deem necessary in order to determine if the proposed extraction operation will not be detrimental to surrounding land uses and the community in general.
- D. All proposed mineral extraction operations shall require a permit for such activities from the Chief of the Division of Reclamation, Ohio Department of Natural Resources prior to the issuance of a Conditional Use Permit.
- E. A description of adequate operational controls shall be used to minimize the creation of detrimental ground vibrations, sound, pressure, smoke, noise, odors, or dust which would injure or be a nuisance to any persons living or working in the vicinity.
- F. The location of any storage or processing activities upon the site shall be subject to approval by the BZA because of possible detrimental external effects, such as air or water contamination. All such activities shall be naturally or artificially screened from any public street, existing dwelling unit, or any residentially zoned property.
- G. Mineral extraction to a depth not exceeding 6 feet may be conducted to within 100 feet of any residential district, provided the operation is conducted over a temporary period not to exceed 12 months. The operation of equipment is limited to the extraction process. All other mineral operations shall not be conducted closer than 500 feet from an existing residential district or any dwelling.

- H. Temporary operational roads shall not be located closer than 200 feet from any residential district or any existing dwelling.
- I. Buildings and structures designed and constructed exclusively for mineral extraction, storage, or processing for which no other use is practical or feasible, shall be demolished and removed at expiration of the Conditional Use Permit.
- J. In order to ensure adequate lateral support for public roads in the vicinity of mineral extraction operations:
  - 1. All sand, soil, and gravel excavations shall be located at least 100 feet and backfilled to at least 150 feet from a street right-of-way line.
  - 2. No blasting shall be used as a means of soil and mineral extractions in any zoning district.
  - 3. Such excavation or quarrying may be permitted within these limits to the point of reducing the ground elevation to the grade of the existing or platted street, road, or highway where officially approved by the authority charged with maintenance of such platted street, road, or highway.
- K. All excavations of gravel, soil, or sand shall either be made to a depth not less than 5 feet below a water-producing level or graded and/or backfilled with non-noxious and non-flammable solids, to assure that the excavated area will not collect and retain stagnant water. The graded or backfilled surface shall create an adequate finished topography to minimize erosion by wind or rain and substantially conform to the contours of the surrounding area.
- L. The underwater banks of all excavations which are not backfilled shall be sloped at a grade of not less than 3 feet horizontal to 1 foot vertical, with a minimum of 6 feet below the water line. Spoil banks shall be graded to a level suiting the existing terrain and planted with trees, shrubs, legumes, or grasses where re-vegetation is possible.
- M. Whenever the floor of a quarry is greater than 5 feet below the average grade of an adjacent public street or any adjacent property, the property containing such quarry shall be completely closed by a mound of earth not less than 6 feet in height and planted with suitable landscaping, or a fence shall be sufficient in either case to prevent persons from trespassing on the property and shall be subject to approval by the BZA. Such mound shall be located not less than 25 feet from any street right of way or boundary of the quarry property. Such barriers may be excluded where deemed unnecessary by the BZA because of the presence of a lake, stream, or other existing barrier.
- N. When any quarrying has been completed, such excavated area shall be left as a permanent spring fed lake, or the bottom floor thereof shall be leveled to prevent the collection and stagnation of water and to provide proper drainage without excessive erosion. Said floor shall be covered with soil of adequate thickness for the growing of turf or other ground cover.
- O. To guarantee the restoration, rehabilitation, and reclamation of mined-out areas, every applicant granted permission by the BZA to conduct a mineral extraction operation, as herein provided shall furnish a reclamation plan and performance bond to the Clerk of the Village of Mt. Orab, Brown County, Ohio. The amount of the performance bond shall be based on an estimate of costs to meet the aforementioned requirements prepared by a professional civil engineer registered in the State of Ohio and submitted by the applicant. The amount of the performance bond shall be established by resolution of the Village of Mt. Orab Council

depending upon the type and extent of restoration required. The performance bond shall be a guarantee that such applicant in restoring, reclaiming, and rehabilitating such land, shall be completed within a reasonable time and to the satisfaction of the BZA meets the requirements of this Section.

- P. The reclamation plan for the extracted area shall contain at a minimum the following information:
1. A map at a scale of 1-inch equals 100 feet showing the existing contours at intervals of 5 feet or less, any existing buildings or structures, and any public utilities or easements on the property.
  2. The depth of the proposed cover which shall be at least as great as the depth of the unusable overburden which existed at the commencement of operation, but which in no event need be more than 18 inches.
  3. The angle of slope of all earthen banks, which shall be no greater than 1 foot vertical to 3 feet horizontal. In areas where at the commencement of excavation a greater angle existed, the angle of slope shall be no greater than that which existed at the commencement of excavation.
  4. The angle of slope of all banks consisting of rock and the required cover.
  5. The location of fences or effective plantings in those locations where the BZA determines that such angles of slope are not physically or economically feasible to reduce.
  6. The number of trees and shrubs, and the type of ground cover to be provided. The type and number per acre of trees, shrubs, ground cover, or legume to plant shall be determined in consultation with the Brown County Agricultural Extension Agent.
  7. The location of proposed ultimate land uses, and physical improvements such as roads, drives, and drainage courses, utilities and other improvements as determined in consultation with the Regional Planning Commission of Brown County, the County Engineer, the Sanitary Engineer, and the Zoning Commission.
  8. A statement that vegetation shall be restored by the spreading of sufficient soil and by appropriate seeding of grasses or planting of shrubs and trees in all parts said reclamation area where the same is not submerged under water.
  9. A grading plan showing the proposed final topography of the area indicated by contour lines of no greater intervals of 5 feet.

## 528 Ponds

- A. Ponds shall be permitted in any district.
- B. A pond may not be located on a parcel containing less than 2 acres.
- C. A pond may not be located within 50 feet of any well or septic system.
- D. Ponds shall observe all required setbacks.
- E. A pond shall contain a minimum of a 1/3 acre of water surface area and shall maintain a minimum depth of 12 feet at its deepest point to avoid stagnation of pond water.

- F. All grading, berming, or mounding of a pond shall be constructed to avoid soil erosion occasioned by wind or water.
- G. Grading, berming, or mounding of a pond shall be so constructed to avoid surface water runoff onto adjacent property and constructed in such a way as to be mowable.
- H. Ponds shall maintain an adequate overflow that discharges excess water into a draining tile and/or drainage ditch.
- I. Any pond designed or used as a source of potable drinking water shall be approved by the Brown County Health Department.
- J. Prior to any construction activity, a pond plan approved by a registered engineer shall be submitted to the Zoning Inspector for approval and issuance of a Zoning Permit upon compliance with all requirements for ponds in this Section.
- K. All pond setbacks shall be the same distances as the setbacks for the main residence in the district in which it is located. Setbacks shall be measured from the property line to the edge of the pond. The edge of the pond is the point where the grade approaching the pond changes either higher or lower than the original elevation for the area before pond construction began. If no grade change occurs, the edge of the water when the pond is filled to normal capacity shall determine the edge of the pond.
- L. All ponds require a Zoning Permit.

## 529 Flood Plain Controls

- A. Those areas designated as flood plains by the Brown County Engineer shall be mapped and superimposed on the Zoning District Map to delineate the flood plain as it relates to each district it crosses.
- B. Structures where human habitation may be provided, for either a place of residence or employment, shall not be permitted on a flood plain.
- C. The following uses shall be permitted to occur within flood plains:
  1. Grade level parking on the open portion in any use district within which a flood plain is located, provided no structure is built thereon.
  2. A flood plain may be used for yards, parking areas, and for computing density in Residential Districts.
  3. Temporary uses may be permitted by the Planning Commission in conformity with requirements relative to the granting of temporary permits, provided that a structure shall not be permitted on a flood plain.
  4. Any construction, filling, or excavation in the flood plain shall be reviewed by the Planning Commission and when approved shall be so designed, constructed, and placed on the lot or parcel so as not to decrease the rate and volume of the flow of water and the storage volume of the entire flood plain, and be fixed to the site to withstand the force of flood waters.
  5. Topographic data, engineering studies, or other studies needed to determine the effects of flooding on a proposed filling or excavation or the effect of same on the flow of water shall be submitted by the applicant.

### 530 Erosion Control Requirements

Within 1 year of the completion of any residential or commercial structure, the owner/occupant shall cause appropriate ground cover (such as seed and straw) to be completed within the disturbed area adjacent to and surrounding the structure.

### 531 Private Business or Family Gathering Facility

The primary use of the facility shall be for the rental of the building and the immediate grounds around the building. The average length of rental shall be for a short duration, i.e. For business meetings, family picnics, small weddings, anniversaries, and events to promote future economic expansion of Brown and neighboring counties. Without proper licensing, no food or alcohol shall be sold by the property owners or any rental client. The size of the gathering would be limited to small groups no greater than the parking capacity provided. The rental hours may include daytime events and some evening events.

No rental may be provided for overnight events and camping shall not be permitted. No use shall be permitted for parties of the type of bachelor or bachelorette or lewd or adult entertainment. No underage consumption of beer or intoxicating liquor shall be permitted. No persons shall be housed or provided with overnight accommodations as part of the rental agreement. No guns shall be discharged from the premises and no mechanized vehicles will be provided for rental. At no time shall any pollutants be discharged off of the property, nor any trash be expelled on adjoining properties.

All consumable foods or liquids consumed shall be the sole responsibility of the owner and the renter, and such shall comply with the laws of the State of Ohio. No renter or their guests shall be allowed to use motorized vehicles such as 3 or 4 wheelers, ATVs, motorcycles, or scooters on the facility.

The primary intent of the property for rent shall be for business use in the form of meetings, award banquets, retirement ceremonies, and economic development planning. The secondary use shall be for small weddings or family gatherings. All parking shall be contained on premises and no inhibiting traffic on the roadway shall be permitted.

This Conditional Use is granted to the applicant/property owner only. The Conditional Use Permit shall terminate upon any transfer of the title ownership of the property.

### 532 Small Wind Energy Project Regulation

#### A. Intent

The purpose of this regulation is to establish regulations for small wind energy projects in order to preserve and protect public health and safety.

#### B. Applicability

This regulation applies to all lands within the boundaries of Mt. Orab, Ohio.

#### C. Definitions

In this regulation:

##### 1. Clear Fall Zone

An area surrounding the wind turbine unit into which the turbine, tower and/or turbine components might fall due to inclement weather, poor maintenance, faulty construction methods, or any other condition causing turbine failure. The area shall remain confined within the property lines of the primary parcel where the turbine is located. The purpose of the zone being that, if the turbine should fall or otherwise become damaged,



the falling structure will be confined to the primary parcel, will not fall onto dwellings or accessory buildings, and will not intrude onto a neighboring property.

2. Megawatt

Unit of power equal to one million watts.

3. Met Tower

A tower, including any anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring, that is used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at or near a small wind energy project.

4. Equipment Owner or Owner

The person or entity that owns a small wind energy project or met tower.

5. Participating Landowner

The owner of the property on which a small wind energy project is built.

6. Non-participating Landowner

An owner of property on which a small wind energy project is not being built.

7. Rotor Diameter

The cross-sectional dimension of the circle is swept by the rotating blades.

8. Small Wind Energy Project

A wind energy project that has a capacity of more than 2 kilowatts and less than 5 megawatts, including the wind turbine generator or anemometer or any parts thereof and is primarily used to generate energy for use on the property where it is located. If the wind energy project is affixed to a primary or accessory structure and not a tower then the project developer must provide definitive evidence that the existing structure has adequate capacity to support that additional weight, overturning moments and cyclic loading due to operating resonance generated by the wind turbine. Approval by a licensed professional engineer is required for any building integrated projects over 5kW.

9. Total Height

The vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

10. Tower

Either the freestanding or monopole structure that supports a wind generator or the freestanding or monopole structure that is used as a met tower.

11. Wind Energy Project

Equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by Ohio R.C. 1551.20) and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the project.

## 12. Wind Generator

The mechanical and electrical conversion components mounted at the top of a tower in a wind energy project.

### D. Standards – Small Wind Energy Project

A small wind energy project is a conditional use in any district and is subject to the following requirements:

1. Setbacks - A wind tower for a small wind energy project shall be set back:
  - a. A distance equal to 3 times its total height from any public road right of way;
  - b. A distance equal to 3 times its total height from any overhead utility lines, unless written permission is granted from the affected utility;
  - c. A distance equal to 3 times its total height from all adjacent property lines, unless written permission is obtained from the adjacent participating or non-participating landowner or landowners waiving such setback.

The Owner shall provide for a “clear fall zone” that shall be maintained at all times the turbine or tower is standing. The “clear fall zone”, along with the manufacturer’s recommendations of such a zone, must be attached to the engineering report submitted as part of the application.

2. Sound – The noise generated by the operation of a small wind energy project may not exceed 40 decibels measured from all adjacent non-participating landowners’ property lines.
3. Blade Clearance - The vertical distance from ground level to the tip of a wind generator blade when the blade is at its lowest point shall be at least 30 feet.
4. Access - All ground-mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within 16 feet of the ground that is readily accessible to the public.
5. Electrical Wires - All electrical wires associated with a small wind energy project, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, must be located underground.
6. Lighting - A wind tower and generator shall be artificially lighted only if lighting is required by the Federal Aviation Administration or Ohio Department of Transportation.
7. Appearance, Color, and Finish - The wind generator and tower shall remain painted or finished. The color cannot be a distractive color which causes a safety issue.
8. Signs - No sign, other than a warning sign or installer, owner, participating landowner, or manufacturer identification sign, may be placed on any component of a small wind energy project.
9. Code Compliance - A small wind energy project, including tower, shall comply with all applicable State construction and electrical codes, and the National Electrical Code.
10. Signal Interference - The owner of a small wind energy project or met tower must take reasonable steps to prevent and eliminate any interference with the transmission and

reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.

11. Utility Interconnection - A small wind energy project that connects to the electric utility must comply with all pertinent provisions of the Ohio Revised Code.

E. Standards – Met Tower

A met tower is a conditional use in any district subject to the same standards as a small wind energy project set forth in this Section, except for the standards contained in Sections 534.D.2 and 534.D.3 in these Standards - Small Wind Energy Project.

F. Permit Requirements

1. Conditional Use Permit - A Conditional Use permit is required for the installation of a small wind energy project or a met tower.
2. Site Plan Review - The Conditional Use permit application shall be accompanied by a site plan which includes the following:
  - a. Property lines and physical dimensions of the property;
  - b. Location, dimensions, and types of existing major structures on the property;
  - c. Location of the proposed wind project tower;
  - d. Location of any overhead utility lines on or adjacent to the property;
  - e. The right of way of any public road that is contiguous with the property;
  - f. Description and specifications of the components of the small wind energy project, met tower, or both, including the manufacturer, model, capacity, blade length, rotor diameter, and total height of any small wind energy project; and
  - g. A statement from the applicant that all Wind Energy Project(s) will be installed in compliance with manufacturer's specifications, and a copy of those manufacturer's specifications.
3. Fees - The application for a Conditional Use permit for a small wind energy project shall be accompanied by the appropriate fee required.
4. Expiration - A Conditional Use permit issued pursuant to this regulation shall expire if:
  - a. The small wind energy project or met tower is not installed and functioning within 12 months from the date the Conditional Use permit is issued; or
  - b. The small wind energy project is out of service or otherwise unused for a continuous 12-month period.
5. Building Permits - Applicants for all small wind energy projects and parts thereof shall obtain all applicable Building Permits from the State of Ohio, as required.
6. The system shall comply with all applicable Federal Aviation Administration (FAA) requirements, including Part 77 of Title 14 of the Code of Federal Aviation Regulations regarding installations close to airports.

7. The Conditional Use permit application for a small wind energy project shall include standard drawings and an engineering analysis and report of the system's tower and certification by a professional engineer.

#### G. Maintenance

Wind turbines shall be maintained in good working order.

1. The equipment owner shall, within 30 days of permanently ceasing operation of a met tower or small wind energy project, provide a written Notice of Abandonment to the Zoning Enforcement Officer.
2. A small wind energy project or met tower that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Zoning Enforcement Officer may issue a Notice of Abandonment to the equipment owner of the small wind energy project or met tower that is deemed to have been abandoned. The equipment owner shall have the right to respond to the Zoning Enforcement Officer's Notice of Abandonment within 30 days from the Notice date. The Zoning Enforcement Officer shall withdraw the Notice of Abandonment and notify the equipment owner that the Notice has been withdrawn if the owner provides verification that demonstrates that the small wind energy project or met tower has not been abandoned.
3. If the small wind energy project or met tower is determined to be abandoned or the Zoning Enforcement Officer receives a Notice of Abandonment from the equipment owner, the small wind energy project or met tower must be removed within 90 days of the Notice of Abandonment and the site must be reclaimed. "Reclamation" includes removal of all equipment and apparatuses, supports and/or other hardware associated with the existing wind turbine, including removal of the above-mentioned items to a depth of three (3) feet below grade. If the owner fails to remove a small wind energy project or met tower and reclaim the site, the Village may remove or cause the removal of the small wind energy project or met tower and cause the site to be reclaimed. The cost of removal and reclamation shall become a lien upon the property and may be collected in the same manner as property taxes.

#### H. Conditional Use Permit Procedure

1. An Owner shall submit an application to the Zoning Enforcement Officer for a Conditional Use permit for a small wind energy project. The application shall be on a form approved by the Village and shall be accompanied by three (3) copies of the site plan identified in Section 1129.30.F.2.
2. The Board of Zoning Appeals shall authorize issuance of a permit or deny the application within the time provisions set out in the Zoning Ordinance.
3. The Board of Zoning Appeals may authorize the issuance of a Conditional Use permit for a small wind energy project after a public hearing on the application if the application and supporting materials show that the proposed small wind energy project meets the requirements of this regulation, and the use is otherwise authorized by the Board of Zoning Appeals.
4. In the event that the maximum permitted height for a small wind energy system cannot be achieved on a specific property by virtue of setback constraints, the maximum permitted height shall be controlled by the setback constraints. The Board of Appeals

shall not issue a variance to the minimum required setbacks for a small wind energy project.

5. The Owner shall conspicuously post the Conditional Use permit on the premises upon issuance so as to be visible to the public at all times until construction or installation of the small wind energy project is complete.

I. Violations

1. It is unlawful for any person to construct, install, or operate a small wind energy project or met tower that is not in compliance with this regulation or with any condition contained in a permit issued pursuant to this regulation. A small wind energy project or met tower that was installed prior to the effective date of this regulation is exempt from the requirements of this regulation.
2. It is unlawful for a person to disobey, fail, neglect, or refuse to comply with or otherwise resist an order issued pursuant to this regulation.

J. Enforcement

1. The Zoning Enforcement Officer may enter any property for which a permit has been issued under this regulation to conduct an inspection to determine whether there is any violation of this regulation or whether the conditions stated in the permit have been met.
2. The Zoning Enforcement Officer may issue an order to abate any violation of this regulation.
3. The Zoning Enforcement Officer may issue a citation for any violation of this regulation.
4. The Zoning Enforcement Officer may refer a violation of this regulation to legal counsel for legal action.

K. Relationship to Other Regulations

This regulation does not abrogate, annul, impair, interfere with, or repeal any existing regulation.

L. Penalty

1. Any person who fails to comply with any provision of this regulation or a building permit issued pursuant to this regulation shall be subject to enforcement and penalties as stipulated in the Zoning Ordinance.
2. Nothing in this section shall be construed to prevent the Village from using any other lawful means to enforce this regulation.

### 533 Outdoor Woodburning Furnaces

A. Purpose

1. It is generally recognized that the type of fuel used, and the scale and duration of burning by outdoor woodburning furnaces, creates noxious and hazardous smoke, soot, fumes, odors, and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. It is the intention of the Village of Mt. Orab Council to establish and impose restrictions upon the

construction and operation of outdoor woodburning furnaces within the limits of the Village for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Village and its inhabitants.

B. Definitions

As used in this section, the following terms shall have the meanings indicated:

1. Outdoor Woodburning Furnace – An accessory structure, designed and intended, through the burning of wood, for the purpose of heating the principal structure or any other site, building, or structure on the premises.
2. Violator or Any Person Who Violates Any Provision of his Section – Any person who owns or occupies the property at the time the outdoor woodburning furnace has been installed and/or operated.

C. Construction and Operation Prohibited

The construction and operation of outdoor woodburning furnaces are hereby prohibited within the Village of Mt. Orab.

Penalties for Offenses

1. Any person who shall violate any provision of this section shall be guilty of a violation and shall be subject to a fine of \$500. Each week's continued violation shall constitute a separate and distinct offense.
2. In the event the Village is required to take legal action to enforce this article, the violator will be responsible for any and all necessary costs incurred by the Village relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property so affected by including such expense in the next annual Village tax levy against the property.

D. Nonconforming Uses

1. Except as hereinafter provided, the lawful use of any outdoor wood burning furnace existing at the time of the adoption of this section may be continued, although such use does not conform to the provisions of this section.
2. No outdoor woodburning furnace existing at the time of the adoption of this section shall therefore be extended or enlarged.
3. Any existing outdoor woodburning furnace which is abandoned or discontinued for a period of seven consecutive months shall not be permitted to be reestablished as a nonconforming use and must be immediately removed by the property owner from the subject premises.
  - a. If the property owner fails to remove the outdoor woodburning furnace by the end of said seven-consecutive-month period, the Village of Mt. Orab Code shall give written notice by certified mail or personal service to the owner of the property upon which the outdoor woodburning furnace is located. Such notice shall provide that said owner shall remove the outdoor woodburning furnace

within 15 days of the date the notice is either postmarked or personally served upon the owner.

- b. Should the outdoor woodburning furnace not be removed within the time specified, the Village of Mt. Orab Council shall take reasonable steps to affect its removal.
  - c. The costs incurred by the Village to affect said removal (including any attorney's fees incurred by the Village to affect the removal), plus an amount equal to 50% of said costs of removal, shall be charged to the owner of said premises. Said expense shall be paid by the owner of the property so affected within 30 days from the date said costs are presented to the owner. If said expense is not paid within said thirty-day time frame, then said expense shall be charged to the property so affected by including such expense in the next annual Village tax levy against the property.
4. No existing outdoor woodburning furnace which has been damaged by any reason to the extent of more than 75% of its assessed value shall be repaired or rebuilt.

#### **534 Manufactured Homes & Mobile Homes on Individual Parcels (Lots)**

It is the intent of this ordinance that no mobile home shall be permitted in any zoning district other than in R-3 as a conditional use in a manufactured home park, except those which exist in other districts prior to the enactment of this ordinance. Mobile homes which are in place on individual parcels (lots) at the enactment of this ordinance may continue, provided the following conditions are met:

- A. An existing mobile home is a vehicle or mobile structure more than 40-feet long, on wheels, skids, rollers, or blocks, designed to be pulled, pushed, or carried by motor vehicle on a highway, and designed for living as a one-family dwelling, complete and ready for occupancy as such except for minor and incidental packing and assembly operations, location on permanent foundations, connections to utilities, and the like.
- B. An existing mobile home may be replaced by a newer mobile home of the same or larger size as long as the minimum zoning lot requirements of the district in which it is located are met and it fits on the existing pad footprint.
- C. If in so replacing the existing mobile home, it is not physically possible to meet the minimum zoning lot requirements of this ordinance, the replacement will be permitted as long as the yard setbacks of the existing mobile home being replaced are maintained. In no way shall the nonconforming yard setbacks be decreased.
- D. If an existing mobile home is removed from said individual parcel (lot) for a period of 3 months or longer, the use of the parcel (lot) reverts to that for which that district is zoned, and no mobile home will be permitted thereafter.

#### **535 Recreational Vehicles, Watercraft, Dirt Bikes, Motorized Sport Vehicles, and Utility Trailers**

- A. Parked or stored camping and recreational equipment as defined by Article 2 shall not be connected for a period of more than forty-eight (48) hours to electricity, water, gas, or sanitary sewer facilities, and at no time shall this equipment be used for living purposes.
- B. If the camping and recreational equipment is parked or stored outside a garage, it shall be parked or stored to the rear of the house and must be at least 25 feet from edge of pavement (of roadway abutting the property) and 3 feet from any lot line.

- C. Notwithstanding the provisions of Subparagraph B, camping and recreational equipment may be parked anywhere on the premises for loading and unloading purposes, for a period of not more than forty-eight (48) hours.

### **536 Bed and Breakfast Inns**

Bed and Breakfast Inns may be approved when the following conditions are met:

- A. The applicant shall provide a site plan showing the lot proposed to contain the Bed and Breakfast Inn, existing structures, proposed improvements, parking, signage, and screening and a floor plan indicating the proposed operations.
- B. The Bed and Breakfast Inn shall maintain a register listing the name, address, phone number, and dates of stay of all paying guests. The registry shall be made available for inspection by the Village.
- C. The maximum number of occupants permitted per room shall be outlined in Conditional Uses determined by the Planning Commission.
- D. There shall be no change in the outside appearance of the building or lot or other visible evidence of the conduct of the Bed and Breakfast Inn that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a single-family dwelling.
- E. Signage shall be permitted as non-illuminated, not to exceed two feet square, and not to be placed above the first story and as indicated in Section Article 10 Signage.
- F. One off-street parking space shall be provided for every guestroom in addition to the off-street parking otherwise required for a single-family dwelling. All off-street parking shall be screened in accordance with Section Article 9 Off-Street Parking and Loading Facilities. Off street parking for guests may be double stacked. On-street parking on public rights of way (where permitted) adjacent to the lot may be counted on to reduce the number of parking spaces required.
- G. No kitchen or cooking facilities shall be permitted within the individual guestrooms.
- H. The percentage of structure occupied by the Bed and Breakfast Inn shall be no more than 50% of the gross floor area of the single-family dwelling.
- I. Rental of the Bed and Breakfast Inn for special gatherings such as wedding receptions and parties shall be prohibited.
- J. The plans for the proposed Bed and Breakfast Inn shall be reviewed by the Village of Mt. Orab Fire Chief, and a Zoning Permit shall not be issued by the Village Administrator until the Fire Chief has inspected the Bed and Breakfast Inn.
- K. The applicant shall submit the proposed Bed and Breakfast Inn to the Brown County Health Department for review.
- L. Other appropriate conditions may be prescribed by the BZA on an individual basis.

### **537 Wireless Telecommunications Facilities**

- A. The purpose of this Section is to regulate the placement, construction, and modification of wireless telecommunications facilities and their support structures in order to protect the public health, safety, and welfare, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace. Specifically, the purposes of the Section are:



1. To direct the location of various types of towers and wireless telecommunications facilities into appropriate areas of the Village.
2. To protect residential areas and land uses from potential adverse impacts of towers and wireless telecommunications facilities.
3. To minimize adverse visual impacts of towers and wireless telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques.
4. To promote and encourage shared use/co location of towers and antenna support structures as a primary option rather than construction of additional single use towers.
5. To avoid potential damage to adjacent properties caused by towers and wireless telecommunications facilities by ensuring such structures are soundly designed, constructed, and modified; are appropriately maintained; and are fully removed.
6. To the greatest extent feasible, ensure that towers and wireless telecommunications facilities are compatible with surrounding land uses.
7. To the greatest extent feasible, ensure that towers and wireless telecommunications facilities are designed in harmony with natural settings and in a manner consistent with current development patterns.

#### B. Applicability

All towers, antenna support structures, and wireless telecommunications facilities any portion of which are located within the Village are subject to this Ordinance except as provided in this Ordinance, any use being made of an existing tower or antenna support structure on the effective date of this Ordinance shall be deemed a nonconforming structure and allowed to continue, even if in conflict with the terms of this Ordinance. Any tower site that has received approval in the form of a permit by the Village but has not yet been constructed or located shall be considered a nonconforming structure so long as such approval is current and not expired.

#### C. Definitions

Specific words and terms as used in this Section are defined as follows:

1. Antenna - Any panel, whip, dish, or other apparatus designed for communications through the sending and/or receiving of electromagnetic waves, excluding any support structure other than brackets.
2. Antenna Support Structure - Any building or other structure other than a tower which can be used for location of wireless telecommunications facilities.
3. Clear Fall Zone - An area surrounding the wireless telecommunication facility into which the tower and/or support structure components might fall due to inclement weather, poor maintenance, faulty construction methods, or any other condition causing failure. The area shall remain confined within the property lines of the primary parcel where the facility is located. The purpose of the zone being that, if the facility should fall or otherwise become damaged, the falling structure will be confined to the primary parcel, will not fall onto dwellings or accessory buildings, and will not intrude onto a neighboring property.
4. Co-location - The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

5. Emergency - A reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
6. Equipment Shelter - The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.
7. FAA - The Federal Aviation Administration and any legally appointed, designated, or elected agent or successor.
8. FCC - Federal Communications Commission and any legally appointed, designated, or elected agent or successor.
9. Monopole - A support structure constructed to a single, self-supporting hollow metal tube securely anchored to a foundation.
10. Person - Any natural person, firm, partnership, association, corporation, or other legal entity, private or public, whether for profit or non-profit.
11. Tower - A self-supporting lattice, guyed, or monopole structure constructed from grade which supports wireless telecommunications facilities. The term tower shall not include amateur radio operator's equipment as licensed by the FCC.
12. Wireless Telecommunications Facility - Any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a person seeks to locate or have installed upon a tower antenna support structure. However, the term wireless telecommunications facilities shall not include:
  - a. Any satellite earth station antenna 2 meters in diameter or less which is located in an area zoned Business or Industrial.
  - b. Any satellite earth station antenna 1 meter or less in diameter, regardless of zoning category.
  - c. Antennas used by amateur radio operators.

D. Standards Applicable to All Wireless Telecommunications Facilities

1. Construction Standards - All wireless telecommunications facilities and support structures shall be certified by an Engineer licensed in the State of Ohio to be structurally-sound and, at a minimum, in conformance with Ohio Basic Building Code.
2. Natural Resource Protection Standards - The location of the wireless telecommunications facility shall comply with all natural resource protection standards established either in this Zoning Ordinance or in other applicable regulations, including those for floodplains, wetlands around water protection, and steep slopes.
3. Historic or Architectural Standards Compliance - Any application to locate a wireless telecommunications facility on a building or structure that is listed on a federal, state, or local historic register, or is in a historic district established by the Village, shall be subject to review by the County Building Commissioner to ensure architectural and design standards are maintained.
4. Color and Appearance Standards - All wireless telecommunications facilities shall be painted a non-contrasting gray or similar color minimizing its visibility unless otherwise

required by the FCC, FAA, and/or by historical or architectural standards imposed. All appurtenances shall be aesthetically and architecturally compatible with the surrounding environment by means of camouflage deemed acceptable by the Village.

5. Advertising Prohibited - No advertising is permitted anywhere upon or attached to the wireless telecommunications facility.
6. Artificial Lighting Restricted - No wireless telecommunications facility shall be artificially lit except as required by the FAA.
7. Co-Location - All wireless telecommunications facilities shall be subject to the co-location requirements set forth in this Section.
8. Abandonment - All wireless telecommunications facilities shall be subject to the abandonment requirements set forth in this Section.
9. Setback from Edge of Roof - Any wireless telecommunications facility and its appurtenances permitted on the roof of a building shall be set back 1 foot from the edge of the roof for each 1 foot in height of the wireless telecommunications facility. However, this setback requirement shall not apply to antennas that are less than 2 inches in thickness mounted to the sides of antenna support structures and do not protrude more than 6 inches from the side of such an antenna support structure. This requirement is subject to change by the Village upon review of the photo simulation provided in compliance with this Section.
10. Security Enclosure Required - All towers and equipment shelters shall be enclosed either completely or individually as determined by the Village. No fencing shall be permitted in a residential zone. The Village and co locators shall have reasonable access. No fence shall be required on top of a building or other structure if access to the roof or top of the structure or building is secure.
11. Existing Vegetation and Buffer Plantings - Existing vegetation (trees, shrubs, etc.) shall be preserved to the maximum extent possible. Buffer plantings shall be located around the perimeter of the security enclosure as deemed appropriate by the Village. An evergreen screen may be required around the perimeter of the property in lieu of such buffer plantings.
12. Access Control and Emergency Contact - "No Trespassing" signs shall be posted around the wireless telecommunications facility, along with a telephone number of who to contact in the event of an emergency.
13. The Owner shall provide for a "clear fall zone" that shall be maintained at all times the tower or support structure is standing. The "clear fall zone" along with the manufacturer's recommendations of such a zone, must be attached to the engineering report submitted as part of the application.

#### E. Co-Location Requirements

1. Exemption from Proof of Co-Location Availability - Persons locating a wireless telecommunications facility on a publicly owned property shall be exempted from the requirements herein regarding presentation of proof that co-location is not available. However, persons locating a wireless telecommunications facility on publicly owned property shall continue to be subject to the requirements contained in this Section.

2. Exemption from Certain Requirements - Persons locating a wireless telecommunications facility on a publicly owned property identified by the Village to be suitable for such purposes shall be exempt from the requirements of this Section.
3. Co-Location Design Required - No new tower shall be constructed in the Village unless such tower is capable of accommodating at least one additional wireless telecommunications facility owned by another person.
4. Technically Suitable Space - Authorization for a tower shall be issued only if there is no technically suitable space reasonably available on an existing tower or structure within the geographic area to be served.
5. Application Requirements - With the permit application, the applicant shall list the location of every tower, building, or structure within 3 miles that could support the proposed antenna. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building, or structure within such area. If another communication tower owned by another party within such area is technically suitable, applicant must show that an offer was made to the owner of such tower to co locate an antenna on a tower owned by the applicant on reciprocal terms within the geographic area, and the offer was not accepted. If such co location offer has not been attempted by the applicant, then such other tower is presumed to be reasonably available.

F. Wireless Telecommunications Facilities in Residential Districts

1. Permitted Principal Use - No wireless telecommunications facility is permitted as a principal use on a lot.
2. Accessory Use - The following wireless telecommunications facilities are permitted as an Accessory Use on a lot, subject to the following requirements:
  - a. Tower - No wireless telecommunications tower is permitted as an Accessory Use within a residential district without conditional use approval under the guidelines of this Section.
  - b. Antenna - An antenna for a wireless telecommunications facility may be attached to an existing residential building four or more stories in height or to an existing nonresidential structure subject to the following conditions:
    - i. Maximum Height - The antenna shall not extend more than 20 feet above the roof of the existing building or top of the existing structure.
    - ii. Separate Equipment Shelter - If the applicant proposes to locate the telecommunications equipment in a separate equipment shelter, not located in or attached to the building, the equipment shelter shall comply with the accessory building regulations of the district and not be located aboveground within any required front or side yard.
    - iii. Vehicular Access - Vehicular access to the equipment shelter shall be via the existing circulation system and be paved with asphalt or concrete.
3. Conditional Use - The following wireless telecommunications facilities are permitted as a conditional use on a lot, subject to the following requirements:

- a. Tower - A wireless telecommunications tower may be an Accessory Use to a public or institutional use within a residential zoning district, provided the BZA finds the following standards have been met:
  - i. Minimum Lot Size for Principal Use - The minimum lot size for principal use for which the tower is accessory shall be 5 acres.
  - ii. Minimum Setback from Property Lines and Residential Structures - The minimum setbacks and yard requirements shall be as per this ordinance.
  - iii. Maximum Height - The height of such tower shall be subject to approval by the BZA and be the minimum height necessary.
  - iv. Equipment Shelter - The minimum setbacks, height limits, bulk requirements, and screening standards shall be established by the BZA during the conditional use process. Such shelter shall not be located above ground in any required front or side yard.
- b. Antenna - The BZA may approve the location of an antenna extending more than 20 feet above the roof of an existing building or structure.
  - i. Attachment to Existing Building - An antenna for a wireless telecommunications facility may be attached to an existing residential building four or more stories in height or to an existing nonresidential structure subject to the following conditions:
    - 1. Roof Setback - The pole structure supporting such antenna shall be set back 1 foot from the edge of such roof for each 1 foot of height above such roof. This requirement shall not apply to antennas 2 inches or less in thickness without a supporting pole structure.
    - 2. Separate Equipment Shelter - If the applicant proposes to locate the telecommunications equipment in a separate equipment shelter, not located in or attached to the building, the equipment shelter shall comply with the accessory building regulations of the district and not be located aboveground within any required front or side yard.
    - 3. Required Buffer - A buffer shall be planted in accordance with this Section.
    - 4. Vehicular Access - Vehicular access to the equipment shelter shall be via the existing circulation system and be paved with asphalt or concrete.

G. Wireless Telecommunications Facilities in Business and Professional Districts

- 1. Permitted Principal Use - The following wireless telecommunications facilities are permitted as a principal use on a lot, subject to the following requirements:
  - a. Tower

- i. Maximum Height - The maximum height shall be less than 200 feet. Towers 200 feet or more in height shall require approval as a conditional use under the guidelines of this Section.
    - ii. Minimum Setback from Property Lines - The minimum setbacks and yard requirements for principal structures shall apply.
    - iii. Minimum Setback from Residential Structure - No tower shall be located less than 200 feet from a structure used as a residence.
    - iv. Equipment Shelter - The minimum setbacks and yard requirements for principal structures shall apply and such shelter shall not be located above ground in any required front or side yard.
- 2. Accessory Use - The following wireless telecommunications facilities are permitted as an Accessory Use on a lot, subject to the following requirements:
  - a. Tower
    - i. Maximum Height - The maximum height shall be less than 200 feet. Towers 200 feet or more in height shall require approval as a conditional use under the guidelines of this Section.
    - ii. Minimum Setback from Property Lines - The minimum setbacks and yard requirements for principal structures shall apply.
    - iii. Minimum Setback from Residential Structure - No tower shall be located less than 200 feet from a structure used as a residence.
    - iv. Equipment Shelter - The minimum setbacks and yard requirements for principal structures shall apply and such shelter shall not be located above ground in any required front or side yard.
  - b. Antenna - The antenna shall not be attached to a residential structure.
- 3. Conditional Use - The following wireless telecommunications facilities are permitted as a conditional use on lots subject to the following requirements:
  - a. Tower 200 Feet or More in Height
    - i. Minimum Setback from Property Lines - The minimum setbacks and yard requirements for principal structures shall apply.
    - ii. Minimum Setback from Residential Structure - No tower shall be located a distance less than its height from a structure used as a residence.
    - iii. Equipment Shelter - The minimum setbacks and yard requirements for principal structures shall apply and such shelter shall not be located above ground in any required front or side yard.
  - b. Antenna - The antenna shall not be attached to a residential structure unless such structure is four or more stories in height.

H. Wireless Telecommunications Facilities in Industrial Districts

- 1. Permitted Principal Use - The following wireless telecommunications facilities are permitted as a principal use on a lot, subject to the following requirements:

- a. Tower
  - i. Maximum Height - The maximum height of such tower shall be less than the distance of such tower from the nearest property line.
  - ii. Minimum Setback from Property Lines - The minimum setbacks and yard requirements for principal structures shall apply.
  - iii. Minimum Setback from Residential Structure - No tower shall be located a distance less than its height from a structure used as a residence.
  - iv. Equipment Shelter - The minimum setbacks and yard requirements for principal structures shall apply and such shelter shall not be located aboveground in any required front or side yard.
- 2. Accessory Use - The following wireless telecommunications facilities are permitted as a conditional use on a lot, subject to the following requirements:
  - a. Tower
    - i. Maximum Height - The maximum height of such tower shall be less than the distance of such tower from the nearest property line.
    - ii. Minimum Setback from Property Lines - The minimum setbacks and yard requirements for principal structures shall apply.
    - iii. Minimum Setback from Residential Structure - No tower shall be located a distance less than its height from a structure used as a residence.
    - iv. Equipment Shelter - The minimum setbacks and yard requirements for principal structures shall apply and such shelter shall not be located above ground in any required front or side yard.
  - b. Antenna - The antenna shall not be attached to a residential structure unless such structure is four or more stories in height.
- 3. Conditional Use - The following wireless telecommunications facilities are permitted as a conditional use on a lot, subject to the following requirements:
  - a. Tower
    - i. Maximum Height - Any height of such tower in excess of the distance of such tower from the nearest property line shall require approval of the BZA.
    - ii. Minimum Setback from Property Lines - The minimum setbacks and yard requirements for principal structures shall apply.
    - iii. Minimum Setback from Residential Structure - No tower shall be located a distance less than its height from a structure used as a residence.
    - iv. Equipment Shelter - The minimum setbacks and yard requirements for principal structures shall apply and such shelter shall not be located above ground in any required front or side yard.
  - b. Antenna - The antenna shall not be attached to a residential structure unless such structure is four or more stories in height.

I. Abandonment of Tower

1. Required Notification - All providers utilizing towers shall present a report to the Village notifying it of any tower facility located in the Village whose use will be discontinued and the date this use will cease. Such report shall be filed with the Village 30 days prior to the cessation date. If at any time the use of the facility is discontinued for 180 days, the Village Administrator may declare the facility abandoned. The 180-day period excludes any dormancy period between construction and the initial use of the facility. The owner/operator of the facility will receive written notice from the Village Administrator and be instructed to either reactivate use of the facility within 180 days or dismantle and remove the facility. If reactivation or dismantling does not occur, the Village will either remove the facility or will contract to have the facility removed and assess the owner/operator the costs.
2. Required Notice to Owner - The Village must provide the tower owner with 30 days' notice and an opportunity to be heard before the BZA before initiating such action. After such notice has been provided the Village shall have the authority to initiate proceedings to either acquire the tower and its appurtenances attached thereto at the current fair market value at that time or in the alternative, order the demolition of the tower and all appurtenances.
3. Right To Public Hearing by Owner - The Village shall provide the tower owner with the right to a public hearing before the BZA, which public hearing shall follow the 30-day notice required in this Section. All interested parties shall be allowed an opportunity to be heard at the public hearing.
4. Order of Abatement or Demolition - After a public hearing is held pursuant to this Section, the Village may order the abatement or demolition of the tower. The Village may require a licensee to pay for all expenses necessary to acquire or demolish the tower.

J. Application and Review Requirements

1. Required Information for Applications - All applications for wireless telecommunications facilities including towers shall include the information required under this Section.
2. Plot Plan Required - When a proposed wireless telecommunications facility or antenna support structure is to include a new tower, a plot plan at a scale of not less than 1-inch equals 100 feet shall be submitted. This plot plan shall indicate all building and land uses within 200 feet of the proposed facility. Aerial photos and/or renderings may augment the plot plans.
3. Photo Simulations Required - Photo simulations of the proposed wireless telecommunications facility from affected residential properties and public rights of way taken at designated locations shall be provided.
4. Proof Why Nonresidential Tower Location Not Feasible - In applying for authorization to erect a tower within any residential district, the applicant must present sufficient evidence as to why it is not technically feasible to locate such tower in a more appropriate nonresidential zone. This evidence shall be reviewed by the Village. If the Village refutes the evidence, then the tower is not permitted.



5. Technical Necessity - The applicant shall demonstrate that the telecommunication tower must be located where it is proposed in order to provide adequate coverage to the applicant's service area. There shall be an explanation of why a tower and the proposed site are technically necessary.
6. Landowner Support and Access - Where the wireless telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property supports the application and vehicular access is provided to the facility.
7. Required Site and Landscaping Plan - The applicant shall present a site and landscaping plan showing the following:
  - a. Specific placement of the wireless telecommunications facility on the site.
  - b. The location of existing structures, trees, and other significant site features.
  - c. Type and locations of plant materials used to screen the facilities.
  - d. The proposed color of the facilities.
8. Co-Location and Removal Agreement - The applicant shall present signed statements indicating that:
  - a. The applicant agrees to allow for the potential co-location of additional wireless telecommunications facilities by other providers on the applicant's structure or within the same site location; and
  - b. The applicant agrees to remove the facility within 180 days after its use is discontinued.
9. Review Procedure - Once an application for the placement or expansion of a wireless telecommunications facility has been submitted and accompanied by a \$100 nonrefundable application fee, the application shall be reviewed by the Planning Commission within 30 days after submission of all necessary information required in this Section.
10. Denial by Village - Any decision to deny a request to place, construct, or modify a wireless telecommunications facility and/or tower shall be in writing and supported by evidence contained in a written record.

#### K. Variances

Any request to deviate from any of the requirements of this Ordinance shall require approval of a variance in conformance with the procedure set forth in the Zoning Ordinance.

#### L. Separability

Should any section, clause, paragraph, sentence, item, phrase, or provision of this Ordinance be declared by a Court of competent jurisdiction to be unconstitutional or invalid such decision shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

## ARTICLE 6    CONDITIONAL USES; SUBSTANTIALLY SIMILAR USES

### 601    Intent

In recent years, the characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that these Zoning Regulation should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such consideration as location, design, size, method(s) of operation, intensity of use, public facilities requirements, and traffic generation.

### 602    Contents of Conditional Use Permit Application

Any owner, or agent thereof, of property for which a conditional use is proposed shall make an application for a Conditional Use Permit by filing it with the Zoning Inspector, who shall within 20 days transmit it to the BZA. Such application at a minimum shall contain the following information:

- A. Name, address, and phone number of the applicant.
- B. Locational description of the property.
- C. Zoning district.
- D. Description of existing use.
- E. Description of proposed conditional use.
- F. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, streets and traffic accesses, open spaces, refuse and service areas, utilities, signs, yards, lot lines, landscaping features, and such other information as the BZA may require.
- G. A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties and with the comprehensive plan, to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes, and vibration.
- H. A list containing the names and mailing addresses of all owners of property within 200 feet of the property in question.
- I. A fee as established by the Zoning code.
- J. A narrative addressing each of the applicable criteria contained in the following section, General Standards for All Conditional Uses.

### 603    General Standards for All Conditional Uses

In addition to the specific requirements for conditionally permitted uses as specified in this Section, the BZA shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- A. Is in fact a conditional use as established under the provisions of these Regulations and appears on the Schedule of District Regulations adopted for the zoning district involved;

- B. Will be in accordance with the general objectives, or with any specific objective, of the Village's Comprehensive Plan and/or the Zoning Code;
- C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
- D. Will not be hazardous or disturbing to existing or future neighboring uses;
- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, utilities and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the Village;
- G. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets;
- I. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.
- J. Will otherwise be in conformance with all other sections of this ordinance.

#### **604 Action by the Board of Zoning Appeals**

Within 30 days after the receipt of application or the date of the public hearing, the BZA shall take one of the following actions:

- A. Approve issuance of the Conditional Use Permit by making an affirmative finding in writing that the proposed conditional use is to be located in a district wherein such use may be conditionally permitted, that all conditions for approval of such use in such district have been met, and that such use will neither result in significant negative impacts upon nor conflict with surrounding uses. Such written findings may also prescribe supplemental conditions and safeguards. Upon making an affirmative finding, the BZA shall direct the Zoning Inspector to issue a Conditional Use Permit for such use which shall list all conditions and safeguards specified by the BZA for approval.
- B. Make a written finding that the application is deficient in information or is in need of modification and is being returned to the applicant. Such a finding shall specify the information and/or modifications which are deemed necessary.
- C. Make a written finding that the application is denied and specify the reason(s) for disapproval.

#### **605 Additional Criteria**

- A. Additional Conditions

The BZA may impose other conditions for a conditional use in addition to those prescribed in this Section if, in the BZA's judgment, additional conditions are necessary for the protection of the public health and for reasons of safety, and convenience.

**B. Public Hearing**

No public hearing needs to be held by the BZA in considering an application for a Conditional Use Permit. A public hearing may be ordered and held by the BZA when it deems such public hearing to be necessary in the public interest.

If the Board holds a public hearing it shall be within 30 days after it receives an application for a Conditional Use Permit submitted by an applicant through the Zoning Inspector.

**C. Notice of Public Hearing**

Before conducting a public hearing, notice of such hearing shall be given in one newspaper of general circulation in the Village of Mt. Orab at least 10 days before the date of said hearing. The notice shall set forth the time and place of the hearing and shall provide a summary explanation of the conditional use proposed.

**D. Supplemental Conditions and Safeguards**

In granting approval for any conditional use, the BZA may prescribe appropriate conditions and safeguards in conformance with this Zoning Code. Any violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a punishable violation of this Zoning Code.

**E. Expiration of Conditional Use Permit**

A Conditional Use Permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if such conditionally permitted use has not been instituted or utilized within 1 year of the date on which the permit was issued, or if for any reason such use shall cease for more than 2 years.

**606 Notice to Parties of Interest**

Prior to conducting a public hearing, written notice of such hearing shall be by first-class mail, at least 10 days before the date of the hearing to all parties of interest, to include all parties within 200 feet. The failure to deliver the notification as provided in this Section shall not invalidate any such grant of a Conditional Use Permit. The notice shall contain the same information as required in the Notice of Public Hearing in the Newspaper, Section 1208.

**607 Procedure and Requirements to determine that a Use is Substantially Similar**

Where a specific use is proposed that is not listed or provided for in this Zoning Code, the BZA will decide if the proposed use is substantially similar to a specific use that is listed or provided for in this Zoning Code. If BZA finds that a use is substantially similar to a specific use listed in this Zoning Code, the substantially similar use is deemed to be a substantially similar permitted use in those districts where the specific use is a permitted use, and a substantially similar conditional use in those districts where the specific use is a conditionally permitted use.

In formulating a determination that a proposed use is a substantially similar use; the Board shall follow the procedures relating to appeals and variances as specified in this Zoning Code. Upon making a

determination that a proposed use is substantially similar, the Board shall notify the Council of its decision and shall include in its written findings the reasoning upon which the decision is based. Unless the decision is rejected within 30 days of its receipt by the Council, such substantially similar use determination by the Board shall become effective.

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

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

- A. The compatibility of the proposed use with the general use classification system as specified in this Zoning Code.
- B. The nature, predominant characteristics, and intensity of the proposed use in relation to those uses specified by this Zoning Code as being permitted, or in the case of a conditional use, conditionally permitted, in that district.
- C. The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this Zoning Code.

Should a use be determined to be substantially similar to a specific permitted or conditionally permitted use provided for in this Zoning Code, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has been found to be substantially similar.

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

## ARTICLE 7 NONCONFORMITIES

### 701 Intent

Within the districts established by this Zoning Code, or by amendments thereto which may later be adopted, lots, uses of land, structures, and uses of structures and land in combination exist which were lawful before this Zoning Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Zoning Code. The legitimate interest of those who lawfully established these nonconformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension, and substitution. Furthermore, nothing contained in this Zoning Code shall be construed to require any change in the layout, plans, construction, size, or use of any lot, structure, or structure and land in combination, for which a Zoning Permit became effective prior to the effective date of this Zoning Code, or any amendment thereto. Nevertheless, while it is the intent of this Zoning Code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded, or used as grounds for any other use(s) or structure(s) prohibited elsewhere in the district without the approval of the Board of Zoning Appeals, except as otherwise specifically provided for in this Zoning Code.

### 702 Uses under Conditional Use Provisions, Not Nonconforming Uses

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

### 703 Incompatibility of Nonconformities

Nonconformities are declared by this Zoning Code to be incompatible with permitted uses in the districts in which such uses are located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Zoning Code by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

### 704 Avoidance of Undue Hardship

To avoid undue hardship, nothing in this Zoning Code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Code and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently.

### 705 Substitution of Nonconforming Uses

So long as no structural alterations are made, except as required by enforcement of other codes or ordinances, any nonconforming use may, upon appeal to and approval by the BZA, be changed to

another nonconforming use of the same classification or of a less intensive classification, or the BZA shall find that the use proposed for substitution is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the BZA may require that additional conditions and safeguards be met, which requirements shall pertain as stipulated conditions to the approval of such change, and failure to meet such conditions shall be considered a punishable violation of this Zoning Code. Whenever a nonconforming use has been changed to a less intensive use or becomes a conforming use, such use shall not thereafter be changed to a more intensive use.

#### **706 Single Nonconforming Lots of Record**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Code, notwithstanding limitations imposed by other provisions of this Zoning Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. A one family detached dwelling may be erected on any lot of official record as of the effective date of the Revised Zoning Ordinance of this Village when by reason of its lot area or width, it does not meet minimum requirements for a lot under these regulations:

- A. The sum of the side yard widths on any such lot of record shall be at least twenty-five (25) percent of the width of the lot.
- B. In no case shall the width of any side yard be less than ten (10) percent of the width of the lot, except that on a corner lot, the width of side yard adjoining the side street lot line shall be not less than ten (10) feet.
- C. The depth of the rear yard of any such lot need not exceed twenty (20) percent of the depth of the lot, but in no case shall it be less than twenty (20) feet.
- D. If the width of such lot meets the standards of this Ordinance, but the depth is such that the total area is less than seven thousand, five hundred (7,500) square feet, the rear yard for such lot shall have a minimum of thirty (30) percent of the depth of the lot, but in no case shall it be less than thirty (30) feet.

Variances of requirements listed in these Zoning Regulation, other than lot area or lot width, shall be obtained only through action of the Zoning Board of Appeals as described in Section Article 12 Appeals and Variances.

#### **707 Nonconforming Lots of Record in Combination**

If 2 or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Zoning Code, and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Code, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Zoning Code, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this Zoning Code.

## 708 Nonconforming Uses of Land

Where, at the time of adoption of this Zoning Code, lawful uses of land exist which would not be permitted by the regulations imposed by this Zoning Code, the uses may be continued so long as they remain otherwise lawful, provided:

- A. No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Code.
- B. No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this Zoning Code.
- C. No additional structure not conforming to the requirements of this Zoning Code shall be erected in connection with such nonconforming use of land.

## 709 Nonconforming Structures

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

- A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity. Any such structure may be enlarged, maintained, repaired, or structurally altered; provided, however, that no such enlargement, maintenance, repair or structural alteration shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structures. It shall not be considered an increase to its nonconformity if the addition meets all zoning requirements or does not increase its nonconformity. (See Illustration – Exhibit “F” Section Article 2 Definitions.)
- B. The Board of Zoning Appeals may permit a nonconforming building or structure to be extended, expanded, enlarged, or increased in intensity; subject to the following conditions;
  1. A nonconforming use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on the effective date of this Ordinance.
  2. The Board may permit either an expansion of a nonconforming building or structure, or a substitution of a nonconforming use in such a building or structure, but not both.
  3. A nonconforming building or structure may be extended or enlarged upon the lot occupied by such building on the effective date of this Ordinance or on an adjoining lot, provided such lot was under the same ownership as the lot in question on the effective date of this Ordinance. Such nonconforming building may be enlarged or extended to an extent non exceeding twenty-five (25) percent of the gross floor area of such nonconforming structure of building lawfully existing at the time of the adoption of this Ordinance.



4. The extension or enlargement of a nonconforming building or structure may not occupy ground space suitable and otherwise available for meeting the off-street parking requirements of this Ordinance.
5. A nonconforming use of land may not be extended, enlarged or increased in intensity.
6. Nothing contained in this section shall in any way prohibit a nonconforming use from acquiring additional off-street parking space.
7. Application for an extension or enlargement in accordance with paragraphs (1) through (6) shall be noticed and heard in the manner prescribed for appeal to the Board of Zoning Appeals.

#### **710 Nonconforming Uses of Structures or of Structures and Land in Combination**

If a lawful use involving individual structures, or if a structure and land in combination, exists at the effective date of adoption or amendment of this Zoning Code that would not be allowed in the district under the terms of this Zoning Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Zoning Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Zoning Code, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure or structure and land in combination, may, upon appeal to the BZA, be changed to another nonconforming use provided that the BZA shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the BZA may require appropriate conditions and safeguards in accord with other provisions of this Zoning Code.
- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

#### **711 Termination of Nonconformities**

- A. Termination of Use Through Discontinuance
  1. Discontinuance of nonconforming use of Land: In the event that operation of a nonconforming use of land is voluntarily discontinued for a period of two (2) years, such nonconforming use shall not thereafter be re-established and any subsequent use of occupancy of such land shall conform to the regulation of the district in which it is located.
  2. Discontinuance of nonconforming use of building or structures: In the event that operation of a nonconforming use of all or part of a building or other structure is voluntarily discontinued for a period of two (2) years, such nonconforming use shall not

thereafter be re-established, and any subsequent use or occupancy of such building or other structure shall conform to the regulations of the district in which it is located.

3. The intent to continue a nonconforming use shall not be evidence of its continuance.

#### B. Use by Damage or Destruction

Such restoration shall not cause a new nonconformity, nor shall it increase the degree of nonconformance or noncompliance existing prior to such damage or destruction. When such a nonconforming structure is so damaged or destroyed, and not going to be reconstructed as it previously existed, no rebuilding, restoration, or reoccupation shall be permitted except in conformity with all applicable regulations of these Zoning Regulation. In the event that any building or other structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to such an extent that the cost of restoration to the condition in which it was before such damage or destruction exceeds sixty (60) percent of the current replacement cost of the entire building or other structure, exclusive of foundation, such building or other structure shall not be restored unless such building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located. Moreover, even if such damage is sixty (60) percent or less, no repair or restoration shall be made unless a Zoning Permit is obtained, and restoration is actually begun within six months after the date of such partial destruction.

### 712 Moving of Nonconformities

No structure devoted in whole or in part to a nonconforming use shall be moved to any other location on the same lot or any other lot unless the entire structure, and the use thereof, shall thereafter conform to the regulations of the district in which it will be located after being so moved. Moreover, no nonconforming land use shall be relocated, in whole or in part, to any other location of the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.

### 713 Repairs and Maintenance

- A. Work may be done on ordinary maintenance and repairs (as defined in the Property Maintenance Code) or on repair or replacement of walls, fixtures, wiring, or plumbing; provided, however, that this paragraph (1) shall not be deemed to authorize any violation of Sections 709 through 712.
- B. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition a building or other structure other than a damaged or destroyed building or other structure complying with the established building standards in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.
- C. Nonconforming residential buildings in the Industrial District may be maintained, repaired, improved, modernized or enlarge; provided, however, that no increase in the number of dwelling units shall be permitted.

#### **714 Change of Nonconformities**

The Board of Zoning Appeals may permit a substitution for a nonconforming use in a building or structure lawfully existing at the time of the adoption of this Ordinance subject to the following condition;

- A. The Board may permit either an expansion of a nonconforming building or structure or a substitution of a nonconforming use, but not both.
- B. A nonconforming use of land may not be changed.
- C. Application for a substitution in accordance with paragraph (1) shall be noted and heard in the manner prescribed for appeals to the Board of Zoning Appeals.

#### **715 Nonconforming Accessory Use**

No nonconforming accessory use shall continue after the principal use to which it is accessory has been discontinued.

## ARTICLE 8 PLANNED UNIT DEVELOPEMEMTS (PUD)

### 801 Intent

The intent of this Section is to permit and encourage the creative design of new residential, business/commercial, and industrial areas in order to promote imaginative proposals for local development while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

### 802 Requirements

The owner or owners of any parcel of land in the districts designated may submit an application to the Planning Commission for the type of PUD permitted in that district. Residential Planned Unit Developments, hereafter referred to as R-PUD's may be permitted in the R-1, R-2, and R-3 Residential zoning districts. Business/Commercial Planned Unit Developments, hereafter referred to as B/C-PUD's may be permitted in NB-Neighborhood Business and CB-Central Business/Commercial zoning districts. Industrial Planned Unit Developments, hereafter referred to as I-PUD's may be permitted in the I-Industrial zoning district.

### 803 Permitted Uses

The uses permitted in the PUD shall be those uses permitted by the zoning district containing such development.

### 804 Procedure

#### A. Pre-application Meeting

The developer shall meet the Zoning Inspector prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this Zoning Code and the criteria and standards contained herein, and to familiarize the developer with zoning and other applicable regulations. After meeting with the Zoning Inspector, the developer may discuss the preliminary development plan with the Planning Commission.

#### B. Preliminary Development Plan

The submittal for a commercial, residential, or industrial PUD shall be filed with the Zoning Inspector. In consideration of the submittal, the Planning Commission shall file a written report on the submittal to the Village Council within 30 business days. The report shall address the impact of the proposed development on adjacent and nearby areas of the Village, the effect of the proposed development on the provision of services to the community, and other matters relating to the public health, safety, and general welfare. The report shall include a recommendation of approval, approval with amendments, or denial.

Upon receipt of the recommendation of the Planning Commission, the Village Council shall hold at least one public hearing in consideration of the submittal prior to reaching a decision. The decision of the Village Council shall be made no later than 60 days after the receipt of the recommendation of the Planning Commission. The Village Council may approve, approve with amendments, or deny the submittal. If the submittal is denied, there shall be no resubmittal for a period of 12 consecutive months after the date denied.

### C. Final Development Plan

Within 12 months of approval or approval with amendments of the PUD submittal and the preliminary development plan, the applicant shall submit a final development plan along with any necessary performance surety to the Planning Commission, not to be executed until work is started. The Planning Commission shall evaluate the plan for conformance with the preliminary development plan for the PUD as approved by the Village Council. Upon recording of the Record plat, the Zoning *Administrator* shall issue the necessary permits.

### D. Final Development Plan Effect

Subsequent to the approval of the final development plan, the lands included with the site area thereof shall not be developed or used in any manner whatsoever that is not in conformance with the approved plan; and no permit shall be issued for any building, structure, or use of the lands except in conformance with the approved plan. After the building is constructed, any necessary condominium plats and legal documents shall be recorded in the Office of the County Recorder. Such plats and legal documents will not require further review if they are in conformance with the approved final development plan as verified by the Planning Commission.

### E. Final Development Plan Changes

Any changes in an approved final development plan desired by the owner of the tract of land involved shall be submitted to the Planning Commission. Planning Commission shall review the proposed revisions to an approved final development plan and make a determination or finding that:

1. The proposed revision is a minor change, not substantially altering the overall concept of the PUD. Generally, such changes are limited to small site alterations such as realigning a street, shifting a setback, or slight changes in building designs that do not result in the loss of open space. Increases of up to 10% of the total development density and any decreases in density may be determined by the Planning Commission to be minor changes. Minor changes shall not involve reductions in required improvements, such as open space, parking areas, pavement widths, etc. No public hearing is required.
2. The proposed revision is a major change, which will affect the general character and overall concept of the PUD, including substantial relocation or redesign of principal or Accessory Uses, parking, open space areas, and streets. A major change is involved in density increases in excess of 10% of the total development density and/or revisions affecting the land coverage by building, parking, and open space areas. A Public hearing is required.
3. Where the Planning Commission determines that the proposed revision is a minor change, the proposal may be reviewed as a revised final plan, and action to approve, modify, or deny approval may be taken by the Planning Commission. Minor changes involving or affecting public improvements shall be referred to Village Council for review and action, not requiring a public hearing by Village Council.
4. Where the Planning Commission determines that the proposed revision is a major change, the proposal shall be reviewed as a revised preliminary development plan as a part of the same public hearing, and the Planning Commission may act to approve, modify, or deny approval for the revised preliminary plan, following the public hearing.

The revised preliminary plan shall be reviewed in the same manner as the original plan, including a public hearing review by the Village Council.

5. Upon approval of a revised final development plan as a minor or major change, the original final plan shall be considered void, and the revised final plan shall have the same force effect as if it were the original plan.

#### **805 Preliminary Development Plan Application Requirements**

Any submittal for a PUD shall contain the following information in the submittal package including the information constituting a preliminary development plan. The applicant shall submit an original plus 2 copies of the preliminary development plan, and written documents as determined by the Zoning Inspector.

- A. Names, address, and phone number of owners, developers, and designers of the plan, and proposed name of the development.
- B. Name, address, and phone number of registered surveyor, registered engineer, and urban planner assisting in the preparation of the preliminary development plan.
- C. A legal description of the land to be developed under the submittal.
- D. Present use(s).
- E. Present and proposed zoning district.
- F. Proposed schedule for the development of the site.
- G. Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within 2 years.
- H. A fee as established by this Zoning Code (see Section 13.08 Schedule of Fees).
- I. A list containing the names and mailing addresses of all owners of the property within 200 feet of the property in question.
- J. Verification by at least one owner of property that all information in the submittal is true and correct to the best of their knowledge.
- K. A statement of the objectives to be achieved by the PUD through the particular approach proposed by the applicant and the rationale behind the assumptions and choices made by the applicant.
- L. A development schedule indicating the approximate date when development and construction of the PUD can be expected to begin and be completed.
- M. Quantitative data for the following items:
  1. Total number of dwelling units, commercial facilities, industrial buildings, and parcel size.
  2. Proposed lot coverage of buildings and structures.
  3. Approximate gross and net residential, business/commercial, or industrial densities.
  4. Total amount of open space including separate figure for usable open space.
  5. Traffic study where deemed necessary by the Planning Commission.

- N. Site plan and supporting maps. Maps shall be drawn at an appropriate scale to show the following information:
1. Date, north arrow, and scale.
  2. Existing zoning district.
  3. Existing site conditions including contours at 1-foot intervals, water course, floodplains, unique natural features, and natural cover.
  4. Proposed lot lines and plot designs.
  5. The location and floor area size and height of all existing and proposed buildings, building elevations, structures, and other improvements including maximum heights, types of dwelling units, density per acre, and nonresidential structures, including commercial facilities.
  6. The location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and public and semi-public uses.
  7. The existing and proposed circulation system of arterial, collector, and local streets including off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way.
  8. Existing and proposed pedestrian circulation system, including its interrelationships with the vehicular circulation system indicating proposed treatment of points of conflict.
  9. The existing and proposed utility systems including proposed and existing easements for the sanitary sewers; storm sewers; and water, electric, gas, and telephone lines.
  10. A general schematic landscape plan indicating the treatment of materials used for private and common open spaces.
  11. Information on land areas adjacent to the proposed PUD to indicate the relationships between the proposed development and existing and proposed adjacent areas, including land uses, zoning classifications, densities, circulation systems, public facilities, unique natural features, and land uses within a ½ mile of the boundaries of the proposed development.
  12. A landscaping and screening plan for all perimeters of the PUD.
  13. Phases of development and approximate starting dates.

#### **806 Notice of Public Hearing in Newspaper**

Notice of the public hearing shall be given by the Planning Commission and Village Council by at least one publication in one or more newspapers of general circulation in the Village. Said notice shall be published at least 10 days before the date of the hearing. The published notice shall set forth the time and place of the public hearing and a summary of the nature of the proposed PUD.

#### **807 Notice to Parties in Interest**

Before conducting the public hearing required, written notice of such hearing shall be mailed, by the Village Planning Commission, by first-class mail, at least 10 days before the day of the hearing to all parties within 200 feet of the property line. The failure to deliver the notification as provided in this

Section shall not invalidate any such PUD. The notice shall contain the same information as required in Section 1208 Notice of Public Hearing in a Newspaper.

### 808 Final Development Plan Application Requirements

After approval of a preliminary development plan by the Village Council, the applicant shall submit the following information as a final development plan to the Zoning Inspector. The submittal shall consist of an original plus 2 copies of all required documents.

Each submittal shall be signed by the owner, attesting to the truth and exactness of all information supplied on the submittal for the final development plan. Each submittal shall clearly state that the approval shall expire and be revoked if construction on the project has not begun within 1 year from the date of issuance of the approval. At a minimum, the submittal shall contain the following information:

- A. A survey of the proposed development site, showing the dimensions and bearings of the property lines, area in acres, topography, and existing features of the development site, including major wooded areas, structures, streets, easements, utility lines, and land uses.
- B. All the information required on the preliminary development plan, the location and sizes of lots, location and proposed density of dwelling units, non-residential building intensity, and land uses considered suitable for adjacent properties.
- C. A schedule for the development of units to be constructed in progression, and a description of the design principles for buildings and streetscapes, a tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type, estimated residential population by type of housing, estimated non-residential population by type of housing, estimated non-residential population, anticipated construction timing for each unit, and standards for height, open space, building density, parking areas, population density, and public improvements, whenever the applicant proposes any exception from standard zoning districts requirements or other Ordinances governing development.
- D. A fee as established by this Zoning Code (see Section 1308 Schedule of Fees).
- E. Preliminary building plans, including floor plans and exterior elevations.
- F. Any legal agreements stipulating conveyance of public open space to homeowners' or merchants' association and indicating responsibility for maintenance of the open space.
- G. Any restrictive covenants or other conditions which shall apply to any parcel of land in the PUD.
- H. All necessary legal documentation relating to the incorporation of a homeowners' or merchants' association for the purpose of maintaining any common open space included within the PUD.
- I. Final plat for necessary lot creation and right-of-way or easement dedication, if necessary.
- J. Necessary engineer's estimates and performance surety for any public improvements that will eventually be taken over by the Village.
- K. All surveying and legal documents to be recorded shall meet County Standards.
- L. Site plan and supporting maps indicating the following:
  1. Survey of land area to be developed showing topography with existing and proposed contours at 1-foot intervals, drainage, vegetation, and natural cover.



2. Detailed construction plans in conformance with the Village of Mt. Orab Design Criteria and Construction Standards and Drawings along with necessary specifications shall at a minimum consist of the following items:
  - a. The location of lot lines, building outlines, and setbacks.
  - b. Pedestrian and vehicular circulation system.
  - c. Street plans including plan and profile and typical street cross-sections.
  - d. All utility systems, including sanitary sewers; storm sewers; water, electric, gas, and telephone lines including plan and profiles.
  - e. Landscaping indicating the specific types of vegetation to be used and their location in the development.
  - f. Location of fire hydrants and fire lanes.
  - g. Any additional information in the form of written documents, plans, and supporting maps required by the Planning Commission and Village Council in consideration of the application.
  - h. Storm water management plan, including detention and erosion control.
  - i. Grading plan.

M. Record Plat submission.

## 809 Special Provisions

- A. In a PUD, the Village Council may approve greater densities and smaller lot sizes than those permitted in the zoning district in which the PUD is located.
- B. If the Planning Commission determines it is consistent with the public health, safety, and general welfare and necessary for the overall development and usefulness of the residential PUD, commercial uses may be permitted by the Planning Commission in the development provided they are designed and intended primarily for the use of the residents of that development. All such uses shall:
  1. Be located within a multiple dwelling, an administration building for the development, or a building providing community facilities primarily serving the occupants of the development and their guests.
  2. Have no business signs, advertising, or displays visible from the outside of the building in which they are located; and
- C. The Planning Commission may take into account any other factors it deems appropriate to the development under consideration.
- D. Ownership of Common Open Space.
  1. In an R-PUD, the common open space shall be owned by the homeowners as tenants-in-common. A homeowners' association shall be formed prior to the conveyance of the first property, and the legal documents establishing the association shall stipulate that the association will control and have responsibility for maintenance of the common open space upon conveyance of more than 50% of the lots or units in the development.

2. The common open space shall be protected against building development and environmental damage via an open space easement restricting building development and prohibiting removal of soil, trees, and other natural features, except as is consistent with conservation, recreation, or agricultural uses or uses accessory to permitted uses. This easement shall be conveyed before recording of the final plat, specified in the Covenants & Restrictions of the Homeowner's Association.
3. A written agreement or contract shall be executed between the developer and the Village stating the following:
  - a. That in the event of failure of the owners, successors, or assignors to maintain any common open space or the landscaping or improvements thereon, the Village may enter into the development and perform any necessary maintenance, and charge the cost, including, but not limited to engineering and attorney fees, to the owner, successors, or assignors.
  - b. That the developer will construct the development and install landscaping and improvements in accordance with the approved plan.
  - c. That this contract shall be binding upon the owner, successors, assignors, or receivers of the development and shall constitute a lien on the property.
4. Copies of any management policies, deed restrictions, or covenants with the land shall be provided to the Planning Commission prior to the final hearing on the plan.

#### **810 Planning Commission Requirements**

The Planning Commission shall make a recommendation to the Village Council as to the overall density of the development and lot sizes. In making its recommendation, the Planning Commission shall consider the following:

1. The proposed development can be initiated within 1 year of the date of approval.
2. The proposed streets are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the planned unit development.
3. Any proposed commercial or industrial development can be justified at the proposed location.
4. Any exception from standard district requirements is warranted by design and other amenities incorporated in the final development plan, in accordance with these planned unit development requirements and the need to provide a variety of housing opportunities with regard to type and price.
5. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
6. The existing and proposed utility services are adequate for the population densities and non-residential uses proposed.
7. Amount, design, and uses of open space in the development.
8. Overall design quality of the development.
9. Impact of the proposed development on utilities.

10. Amenities to be provided by the developer, including, but not limited to, recreational facilities, infrastructure improvements, environmental improvements, and land set aside for public purposes.
11. Relationship of the development to surrounding land uses.
12. Impact of the development in providing housing and other community needs.

#### **810 Additional Requirements**

- A. The Design Criteria and Construction Standards and Drawings along with 100% surety and 10% maintenance surety shall apply to all public improvement construction that will eventually be taken over by the Village at the sole expense of the developer with no cost to the Village. The 100% performance surety and 10% maintenance surety shall follow the regulations in the Village Subdivision Regulations even if a major subdivision is not applicable.
- B. If the Planning Commission determines it is consistent with the public health, safety, and general welfare and necessary for the overall development and usefulness of the residential PUD, commercial uses may be permitted by the Planning Commission in the development provided they are designed and intended primarily for the use of the residents of that development.
- C. Copies of any management policies, deed restrictions, legal documentation, homeowners' association agreements, or covenants with the land shall be provided to the Planning Commission prior to the approval of the final development plan.

#### **811 Residential and Business/Commercial Planned Unit Development Minimum Design Standards**

- A. Applicants are encouraged to use innovative design, including varying of lot sizes and building orientation. Proposals which do not reflect these innovations may be rejected by the Planning Commission.
- B. PUDs shall be designed in a manner which promotes harmonious relationships between the development and surrounding land uses.
- C. Open space within a PUD may be required by the Planning Commission and if required shall meet the following criteria:
  1. No less than 20% of the total land area, exclusive of streets and street rights-of-way, shall be devoted to common open space. In R-PUDs, this land shall be used for recreation or conservation purposes. This common open space may include such areas as pedestrian walkways, park and open areas, drainage ways, and other lands of an essentially open character, exclusive of off-street parking spaces. In B/C-PUDs, this land shall be appropriately landscaped and may contain walkways, benches, and the like.
  2. The size, location, shape, and character of the open space must be suitable for the designated uses. The common open space shall be usable by the residents of the Planned Unit Development and shall not consist of isolated or fragmented pieces of land which would serve no useful purpose.
  3. No more than 25% of the common open space may be devoted to paved areas (such as parking lots, walks, and hard-surfaced play areas) and structures used for or accessory to open space uses.

4. Landscape plans for the common open space must be approved by the Planning Commission.
  5. Ownership of this common space shall be transferred to a legally established Homeowner's Association and the proper legal documents necessary for such transfer or dedication, be prepared by the owner(s) of the tract of land.
- D. Single-Family, Two-Family, and Multi-Family residential dwellings, whether of modular or site-built construction, shall comply with the following design and appearance standards:
1. The site shall be suitably landscaped, with adequate screening devices as elsewhere required.
  2. The siting of the structure shall comply with all parking requirements in effect for the district for which it is proposed.
  3. The site shall be serviced by utilities in such a manner as required by the Zoning Code.
  4. Roof material shall be either wood shingle, wood shake, synthetic or composite shingle, ceramic tile, concrete tile, or asphalt or fiberglass shingle (no corrugated metal or corrugated fiberglass).
  5. Attached enclosed garages with overhead doors for single-family and two-family residences for each dwelling are required on all new structures.
- E. Townhouses constructed in PUDs must meet the following criteria:
1. No more than 4 contiguous townhouses shall be built in a row with the same or approximately the same front line, and no more than eight townhouses shall be contiguous.
  2. Each townhouse shall have its own yard containing no less than 400 square feet, reasonably secluded from view from streets or from neighboring property. These yards shall not be used for off-street parking, garages, storage facilities, driveways, or accessory buildings.
  3. The minimum distance between any 2 rows of townhouse buildings facing each other shall be 80 feet.
  4. The minimum distance between any 2 abutting ends of townhouse buildings in the same general plan or row shall be 25 feet or greater.
- F. Parking within the PUD shall be regulated in conformance with Section 903 Off-Street Parking and Loading Regulations. Parking areas containing more than 40,000 square feet shall be landscaped in accordance with a plan approved by the Planning Commission.
- G. Signs in a PUD shall conform to the requirements with Section 10 Signage, except that in addition to the other permitted signs, there may be one sign at each entrance to the development indicating the name of the development. In residential PUDs, the signs shall not exceed 40 square feet in size, and in business/commercial PUDs, the signs shall not exceed 80 square feet in size. The Planning Commission may reduce the maximum size of the signs in accordance with the size, design, and location of the PUD.
- H. Street layouts to PUDs shall be designed in a manner to minimize pavement lengths. To the extent possible, streets shall conform to the natural contours of the land. In

business/commercial PUDs, fire lanes shall be provided and approved as to location and width by the fire department.

I. Maximum Height

1. No Single-family or two-family dwelling shall exceed thirty-five (35) feet in height.
2. No multiple-family dwelling shall exceed forty (40) feet in height.

J. Minimum Lot Area, Width and Maximum Density

1. The tract of land to be developed on a Planned Unit basis shall be a minimum of 10 acres.
2. Where the Planned Unit Development includes single-family homes only, the maximum gross density shall not exceed 8 dwelling units per acre.
3. Where the Planned Unit Development contains a combination of single-family, two-family, and multiple-family dwelling, the maximum gross density shall not exceed ten (10) dwelling units per acre.
4. Where the Planned Unit Development includes multiple-family dwellings only, the maximum gross density shall not exceed fifteen (15) dwelling units per acre.

**812 MX-PUD Mixed Use Planned Unit Development District**

A. Intent

To provide for the development of business, office and commercial establishments, and varied residential living opportunities within a unified plan of development. Within the planned development, selected residential uses may be integrated with commercial, business and office establishments, or developed as a subarea with residential neighborhood characteristics. This district provides for flexibility in locating uses, allows for utilization of the site more efficiently than standard zoning regulations, allows for advantageous use of natural features of the site, and allows for residential uses to be selectively integrated with or separated from business, commercial or office establishments.

B. Permitted, accessory and conditional uses

1. The permitted, conditional and accessory uses in MX-PUD zoning districts are those uses included as permitted and accessory uses in residential (R1, R2, R3) and commercial (NB, CB) districts excluding manufactured home developments. One or more of these permitted and accessory uses may be excluded from the specific MX-PUD when the Village Council determines that the specific permitted or accessory use is inappropriate for the specific MX-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:
  - a. Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the city; or will create hazardous traffic

conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

- b. Will not promote the purpose and objectives of the planned unit development provisions of this code; or
- c. Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

2. Upon approval by the Village Council, those uses included as conditional uses in residential, commercial and light industrial districts are allowed in a MX-PUD.

C. Land use intensity

For MX-PUDs, the maximum land use intensity and lot coverage by all buildings, and by buildings and all other impervious surfaces is as follows:

<b>Maximum Coverage by All Buildings</b>	<b>Maximum Coverage by all Buildings and Impervious Surfaces</b>
35%	75%

D. MX-PUD residential uses

Residential uses in MX-PUD Districts are intended to be developed as separate, residential subareas of the MX-PUD. Residential uses shall only be developed in MX-PUD Districts when the following conditions are satisfied.

- 1. If a non-residential use is planned or developed within a horizontal distance of less than 100 feet from a residential use, residential uses shall be developed only at the second story or higher of buildings in which grade level use is a business, office or commercial MX-PUD District permitted, or accessory or approved conditional use.
- 2. The overall density of an MX-PUD shall not exceed the maximum density allowed in the Land Use Plan for dwelling units per acre. When calculating density, the acreage portion of the calculation shall not include undevelopable areas where the natural or environmental conditions (i.e. steep slopes, floodways, wetlands, etc.) would prevent the construction of residential structures without an unreasonable investment to overcome these natural constraints, or areas dedicated as or to be dedicated as public rights-of-way and private streets.
- 3. The minimum lot width in one-family portions of MX-PUDs, shall be 50 feet.
- 4. When designing site plans for proposed, one-family portions of MX-PUDs which will abut existing residential developments, the lot size for the proposed lots which are directly adjacent to the existing residential lots shall be, at a minimum, the same size as the existing residential lots, or 9,000 square feet, whichever is less.

E. Building height regulations

The maximum height of any building in a MX-PUD District shall be 50 feet, except, at the discretion of the Village Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

F. Landscaping and screening

1. With approval of the Village Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, will not adversely affect surrounding neighborhoods and public facilities.
2. Any commercial development proposed to be located within 1,000 feet of any existing or proposed residential district or project shall present and implement plans for providing a barrier from noise generated by the activities of the commercial development. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls, permanent engineered sound barriers, or other methods or materials of equal affect as those listed above, which shall be approved by the Planning Department prior to installation. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

G. Exterior lighting

Upon approval of the Village Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

H. Parking

Upon approval of the Village Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

I. Off-street loading

Upon approval of the Village Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

J. Signs

In conjunction with and at the same time as submission of a specific site plan application, applicants may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may also submit a proposed sign limitation and control package

specifically fashioned to the PUD for separate approval as a minor modification to be considered on a case-by-case basis for individual parcels.

K. Variances

Variances of MX-PUD districts (in the residential portions only) shall be considered on a case-by-case basis for individual parcels. The granting of a variance for an individual parcel shall not be considered approval of a variance for any other parcel within the same or any other district

**813 Industrial Planned Unit Development Minimum Design Standards**

- A. All land in contiguous ownership shall be shown on the plans. The entire parcel is to be included, even if the development is to take place in phases.
- B. The development shall be designed in a manner as to provide safe access, harmonious arrangements of land uses, separation of differing modes of transportation, areas for storm water runoff and possible retention, adequate solid waste and sewage disposal, buffers, parking, and other utilities.
- C. All development which abuts land zoned residential or used for residential purposes shall be adequately buffered from residential boundaries. The buffer shall consist of one or more of the following items: fences, berms, mounding, or plantings that are more than 6-feet tall and form a solid barrier. Where the proposed development may produce excessive noise, traffic, dust, glare, or odor, a planted green belt up to 100 feet in width shall be required and shall be considered part of the open space.
- D. All areas for outdoor storage of materials, waste, or finished products shall be indicated on the plans. The plans shall state the chemical composition or form of the materials, type of storage, length of storage, and height of materials. All outdoor storage areas shall be enclosed by a wall or fence of solid appearance or a tightly spaced evergreen hedge to conceal the areas or facilities from view from adjacent land uses and primary access roads.
- E. No raw galvanized or other raw metal sheeting or untreated concrete block may be used for the exterior construction of any building in the I-PUD.
- F. All buildings shall be of designs and materials which will promote a visually harmonious environment.
- G. Outdoor lighting shall not disrupt neighboring land uses by excessive glare.
- H. Not more than 80% of the total land area of an industrial development shall be devoted to structures, accessory uses, parking areas, and streets.
- I. All parking areas in an I-PUD shall contain landscaping in accordance with an approved landscaping plan. The landscaping shall be completed as soon as practicable according to weather conditions. Where permanent planting must be delayed due to weather conditions, erosion control measures shall be employed until the landscaping is completed.
- J. Access requirements:
  - 1. A paved road shall be provided with adequate frontage for each structure. The road shall be constructed in conformance with standards established by the Village. Roads serving primarily nonresidential traffic, especially truck traffic, shall not normally be extended to the boundary of adjacent land zoned for residential use or in residential



use; nor shall primarily residential roads be used for access to industrial developments. No portion of any lot shall be paved unless in accordance with the approved site plan.

2. Loading docks, truck parking, or truck turn-around areas shall be designated through the use of signs and pavement markings. These areas shall be separated from parking and access areas used by automobiles or pedestrians. Roadway shall not be used for truck parking, standing, or backing areas. Parking and loading facilities shall not be located between structures and local access streets.
  3. Fire lanes shall be provided at all entrances to and exits from structures and storage areas and at all locations of hydrants. Fire lanes shall be designated by signs and pavement markings.
  4. All rail lines, sidings, or switching facilities shall be indicated on the site plan. The Village may require additional vehicular or pedestrian crossings.
- K. Signs - Signs within an I-PUD shall be regulated in conformance with Section 10 Signage except that in addition to the other permitted signs, there may be one sign no more than 100 square feet in area at each entrance to the development. Such signs shall be for the purpose of identifying the overall development.
- L. Parking and Loading Regulations - Parking within an I-PUD shall be regulated in conformance with Section 903 Off-Street Parking and Loading Facilities.
- M. Height Regulations - The maximum height of buildings in the I-PUD shall be 6 stories or 90 feet. All other structures shall comply with this Zoning Code.

#### **814 Expiration and Extension of Approval Period**

The approval of a final development plan for a PUD district shall be for a period not to exceed 3 years to allow for preparation and recording of the required subdivision plat and development of the project. If no construction has begun within 1 year after approval is granted, the approved final development plan shall be void, and the land shall revert to the district regulations of the district in which it is located. An extension of the time limit or modification of the approved final development plan may be approved if the Planning Commission and Village Council finds that such extension is not in conflict with the public interest. No zoning amendment passed during the time period granted for the final approved final development plan shall in any way affect the terms under which approval of the PUD was granted.

## ARTICLE 9 OFF STREET PARKING AND LOADING FACILITIES

### 901 Intent

The intent of the off-street parking and loading regulations is to protect the public health, safety, and welfare by ensuring that all land uses have adequate amounts of off-street parking and loading areas in order to not create traffic hazards on public streets.

### 902 General Parking Requirements

In all districts, should any building, structure, or use of land be increased in capacity (via building/structure erection, enlargement, or use), off street parking shall be provided for vehicles. A parking plan shall be required for all uses except for single- or two-family residential uses. The parking plan shall be submitted to the Zoning Inspector as part of the application for a Zoning Permit. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, and boundary walls, fences and a screening plan, as appropriate.

### 903 Off-Street Parking Design Standards

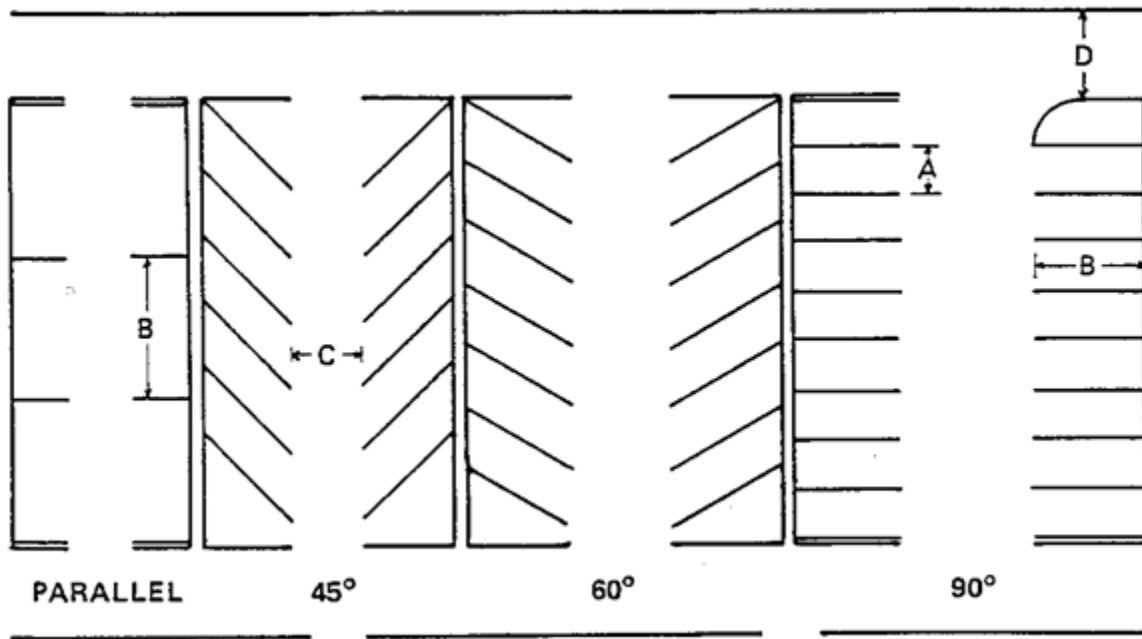
All off-street parking facilities including entrances, exits, maneuvering areas, and parking spaces shall be in accordance with the following standards and specifications:

- A. Parking Space Dimensions: Each off-street parking space shall have an area of not less than 200 square feet exclusive of access drives or aisles and shall be of usable shape and condition.
- B. Access: There shall be adequate provisions for ingress and egress to all parking spaces. Where the lot or parking spaces do not provide direct access to a public street, an access drive shall be provided, with a dedicated easement of access, as follows:
  1. For a single-, two-, or multi -family residential dwelling, the access drive shall be a minimum of 10 feet in width.
  2. For all other residential uses and all other uses, the access drive shall be a minimum of 18 feet in width.
  3. Parking spaces for all detached residential uses shall be located on the same lot as the use which they are intended to serve.
  4. All parking spaces, except those required for single-, two-, or multi -family dwellings, shall have access to a public street in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.
  5. Each required off-street parking space shall have direct access to an aisle or driveway and all required off-street parking areas shall have vehicular access to a street or alley so designed.
- C. Setbacks: In Commercial & Industrial districts, off-street parking spaces may be located in the required front yard on lots where business or industry is located, provided that a 10-foot grass area is located between the parking area and the street right-of-way.
- D. Screening: In addition to the setback requirements specified in this Zoning Code for off-street parking facilities for more than 5 vehicles, screening shall be provided on each side of a parking area that abuts any Residential District. Parking areas shall be effectively screened by a wall,

fence, or densely planted compact hedge, not less than five (5) feet, nor more than eight (8) feet in height.

- E. Paving: All required parking spaces together with driveways, and other circulation areas, shall be dust-free and of a hard-surface with a pavement having an asphalt or concrete binder, such as concrete, asphalt, double chip and seal, or paver bricks provided; however, that variances for parking related to school auditoriums, assembly areas, sports fields, and other community meeting or recreation areas may be granted, provided that paved areas shall be provided for daily-use parking areas. Where paving is not required, proper dust control measures shall be undertaken and maintained. This does not apply to residential or agriculture districts.
- F. Drainage: All parking spaces, together with driveways, aisles, and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways, or onto the public streets. Adequate arrangements shall be made to ensure acceptable diversion to an adequate storm water drainage system. Drainage shall also meet the requirements of the Village of Mt. Orab Design Criteria and Construction Standards and Drawings.
- G. Barriers: Wherever a parking lot extends to a property line, fencing, wheel stops, curbs, or other suitable barriers shall be provided in order to prevent any part of a parked vehicle from extending beyond the property line.
- H. Visibility: Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible for a reasonable distance by any pedestrian or motorist approaching the access or driveway from a public or private street or alley.
- I. Marking: All parking areas for 10 or more spaces shall be marked with paint lines, curb stones, or in some other manner approved by the Zoning Inspector and shall be maintained in a clearly visible condition.
- J. Maintenance: Any owner of property used for parking areas shall maintain such areas in good condition without potholes and free of all dust, trash, or other debris.
- K. Signs: Where necessary due to multiple curb cuts, the entrances, exits, and the intended circulation pattern of the parking area shall be clearly marked.
- L. Lighting: Any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property in any R Residential District.
- M. A single-family dwelling unit shall have two off-street parking spaces.
- N. Proximity: Parking spaces for commercial, industrial, or institutional uses shall be located not more than seven hundred (700) feet from the principal use. Parking lots farther than seven hundred (700) feet from the principal use shall be subject to approval by the Board. Parking spaces for apartments, dormitories, or similar residential uses shall be located not more than three hundred (300) feet from the principal use. When two or more uses are located within the same building or structure, off-street parking spaces equal in number to the sum of the separate requirements for each use shall be provided. All off-street parking spaces required by this Ordinance shall be used only for the parking of vehicles of occupants, patrons, visitors, or employees, and shall not be used for any kind of leading, sales, servicing, or continuous storage of vehicle for more than forty-eight (48) hours.

- O. A two-family dwelling unit shall have two off-street parking spaces per dwelling unit.
- P. Parking Space Dimensions: The minimum dimensions of parking spaces shall be as illustrated below:



**Off-Street Parking Minimum Dimensional Table**

	45°	60°	90°	Parallel	
A	Width of Parking Space	12'	10'	10'	9'
B	Length of Parking Space	19'	19'	20'	23'
C	Width of Driveway Aisle	16'	17'6"	24'	12'
D	Width of Access Driveway	17'	14'	14'	14'

**904 Determination of Required Spaces**

In computing the number of parking spaces required by this Zoning Code, the following shall apply:

- A. Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross horizontal area of all the floors of a non-residential building measured from the faces of the exterior walls.
- B. Where seating capacity is the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated or each 24 lineal inches of benches or pews, except where occupancy standards are set by the fire marshal.
- C. Fractional numbers shall be increased to the next whole number.

**905 Joint or Collective Parking Facilities**

The joint or collective provision of required off-street parking areas shall comply with the following standards and requirements:

- A. All required parking spaces shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly by 2 or more buildings or establishments, the required spaces may be located not farther than 500 feet from the building served.
- B. Not more than 50% of the parking spaces required for theaters, bowling alleys, dance halls, night clubs, taverns, and similar uses, and up to 100% of the parking spaces required for churches, schools, auditoriums, and similar uses may be provided and jointly used by banks, offices, retail stores, repair shops, service establishments, and similar uses that are not normally open, used, or operated during the same hours as the uses with which such spaces are jointly or collectively used.
- C. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by legal counsel, and filed with the application for a Zoning Permit.

#### **906 Off-Street Storage Areas for Drive-In Services**

Establishments which by their nature create lines of customers waiting to be served within automobiles shall provide off-street storage areas in accordance with the following requirements:

- A. Photo pickups, restaurants, drive-through beverage docks, and other similar commercial establishments that can normally serve customers in 3 minutes or less shall provide no less than 5 storage spaces per pick-up facility unless a more restrictive requirement is otherwise noted in this Zoning Regulation. Drive-in restaurants and other similar uses which require an additional stopping point for ordering shall provide a minimum of 3 additional storage spaces for each such stopping point.
- B. Other commercial establishments such as banks, savings and loan offices, or other similar facilities with service or money windows shall provide no less than 4 storage spaces per window.
- C. Self-service automobile washing facilities shall provide no less than 3 storage spaces per stall. All other automobile washing facilities shall provide a minimum of 6 storage spaces per entrance.
- D. Motor vehicle service stations shall provide no less than 2 storage spaces for each accessible side of a gasoline pump island. Gasoline pumps shall not be located closer than 15 feet to any street right-of-way line.

#### **907 Parking of Disabled Vehicles**

The parking of a disabled vehicle within a residential district for a period of more than 48 hours shall be prohibited, except that such vehicle may be stored in an enclosed garage or other accessory building, provided that no business shall be conducted in connection therewith while such vehicle is parked or stored.

#### **908 Parking Space Requirements**

The amount of required off-street parking spaces for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the following minimum requirements. However, no parking area shall project into a required front yard in any residential district

or be permitted between the curb line and property lines (within the right of way) in any district, except as otherwise provided. The number of parking spaces required for uses not specifically mentioned shall be determined by the Board of Zoning Appeals. The determination shall be based upon the expected number of parking spaces the particular type of use would require to satisfy estimated peak parking load requirements.

<b>Residential Uses</b>	
Single-family detached dwellings	2 spaces per dwelling unit
Two-family dwellings	2 spaces per dwelling unit
Multi-family dwellings	2 spaces per dwelling unit
Mobile Home Courts	2 spaces per mobile home site, plus 1 space per each 5 mobile home sites for guest parking.
<b>Institutional and Public Uses</b>	
Elementary and Junior High Schools	1 space per employee, plus 1 space per 2 classrooms.
High Schools	1 space per employee, plus 1 space per 6 students at capacity.
Places of Worship	1 space per 4 seats at maximum capacity of the main sanctuary.
Public Offices and Public Buildings	1 space for every 250 square feet of gross floor area.
Nursing and Convalescent Homes, including Extended Care Facilities and Rest Homes.	1 space per 6 beds, plus 1 space for each staff and employee on the largest work shift.
Community centers, libraries, museums, and other establishments of historical, educational, and cultural interest.	1 space per 250 square feet of gross interior floor area, plus 1 space per employee on the largest work shift.
Child daycare centers	1 space per employee, plus 1 space per 5 children at capacity, plus a drop-off area as determined by the Public Works Director.
Hospitals	1 space for every 2 beds, plus 1 space for each staff and employee on the largest work shift.
<b>Business and Professional Offices</b>	
Business, Professional, and Administrative Offices and Offices for Professional Associations	1 space per 300 sq.ft. of gross floor area, but not less than 2 spaces per office.
Medical Offices and Clinics	3 spaces per treatment or examination room or chair, plus 1 space per staff and employee, but not fewer than 5 spaces per practitioner.
<b>Commercial Uses</b>	
Financial establishments, Banks, and Savings and Loan Associations	1 space per 200 square feet of gross floor area, plus 1 space per employee on the largest work shift, plus 5 off-street waiting spaces per drive-in window or drive-through teller machine.
General Merchandise Stores	1 space for each 150 square feet of gross floor area used for sales and display and 1 space for every 250 square feet of storage, warehouse, and office area.

Restaurants	1 space per 100 square feet of gross floor area, plus 1 space per employee on the largest work shift.
Automobile Service Stations and Automobile Repair, Painting, and Body Shops	2 spaces for each service bay, plus 1 space for each employee and service vehicle, with a minimum of 6 spaces.
Automobile Washing Facilities	1 space for each employee with a minimum of 4 spaces, plus 5 off-street waiting spaces for each car washing device or stall, or 15 off-street waiting spaces for an assembly line type washing establishment, and 2 parking spaces at the end of each washing bay for drying and hand finishing vehicles.
Convenience Food Stores, Carry-Outs, Mini-Markets	1 ½ spaces for every 200 square feet of floor area, plus 1 space for each employee.
Drive-Through and Drive-In Stores, and Stand-Alone Automatic Teller Machines	1 space for each employee, plus off-street waiting space for 5 vehicles per transaction location, plus 1 space for each 200 square feet of sales area open to the public.
Fraternal and Social Associations, Dance Halls, Bingo Halls, and Private Clubs	1 space for every 50 square feet of floor area in assembly or meeting rooms, plus 1 space for every 200 square feet of other floor area.
Restaurants, Fast Food	1 space per 50 gross square feet of floor area, plus 1 space per employee on the largest work shift with a minimum of 15 total spaces and with off-street automobile waiting space for 8 vehicles for each drive-in window, with such automobile waiting space to be located behind the point where a drive-in order is placed.
Vehicle Sales, Rental, and Service	1 parking space for each 800 square feet of floor area, plus 1 space for each 3,000 square feet of open lot area devoted to the sale, rental, and display of motor vehicles.
Animal Hospitals and Veterinary Clinics	3 spaces for each treatment area, plus 1 space for each staff and employee.
Commercial School and Studios	1 space for every 3 students at capacity and 1 space for each employee.
Funeral Homes and Mortuaries	1 space for every 50 square feet of public floor area, plus 1 space for each employee, plus 1 space for each business vehicle.
Home Furnishings and Home Improvement Stores	1 space for each 400 square feet of indoor and outdoor sales and display area and 1 space for each 800 square feet of office, storage, and warehouse area.
Nurseries and Garden Supply Stores	1 space for each employee on the largest shift, 1 space for each 200 square feet of gross floor area of inside sales or display, and 1 space for each 1,000 square feet of exterior sales and display area.
Business and Cleaning Services	1 space for every 300 square feet of sales and office area, plus 1 space for every employee on the largest work shift, plus 1 space for every company or service vehicle regularly stored on the premises.
Bowling Alleys	5 spaces for each alley, plus any addition spaces required for a bar, restaurant, or accessory use.

Dance, Bingo, Assembly, and Exhibition Halls	1 space for every 50 square feet of floor area.
Game Rooms and Pool Halls	1 space for every 2 patrons at a maximum capacity, plus 1 space for every 2 employees on the largest work shift.
Miniature Golf	1 ½ spaces per hole, plus 1 space per employee on the largest work shift.
Theaters and Concert, Meeting, and Banquet Halls	1 space for every 2 ½ seats at capacity.
Hotels and Motels	1 space per room or suite, plus 1 space for every 3 employees on the largest work shift, plus 1 space per 3 persons to the maximum capacity of each public meeting and/or banquet room, plus 50% of the spaces otherwise required for accessory uses (e.g. restaurants and bars).
<b>Industrial Uses</b>	
Manufacturing Industry and Warehouse	1 space for each employee on the largest work shift, plus 1 visitor parking space for every 10,000 square feet of floor area, plus 1 space for every company vehicle regularly stored on the premises. Land must be available for possible future parking lot requirements at a minimum of 1 space for each 1,000 square feet of floor area.
Self-Service Storage Facilities	1 space for every 4,000 square feet of gross floor area, plus 1 space per employee on the largest work shift.
Wholesaling and Storage Facilities	1 space for every 300 square feet of office and sales area, plus 1 space for every 4,000 square feet of warehouse and storage area, plus 1 space per employee on the largest work shift.
Construction Trades, Contractor Offices, and Industrial Craft Shops	1 space for every 300 square feet of floor area, plus 1 space for every motor vehicle used by the business in its normal business affairs.
Lumberyards and Building Materials; Sales And Storage	1 space for each 800 square feet of floor area, plus 1 space for every 3,000 square feet of lot area devoted to the storage and display of building materials.
Heavy Equipment Rental, Sales, Service, and Storage	1 space for every 800 square feet of floor area, plus 1 space for every 3,000 square feet of lot area devoted to the sale and display of vehicles.

### 909 Handicapped Parking

Off-street handicapped parking shall be provided in accordance with the schedule outlined below. Off-street parking requirements for any use not specified in the Zoning Code shall be the same as that specified for a similar permitted use in the same zoning district.

Total Parking Spaces Provided	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5



151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,0001 and over	20, plus 1 for each 100, or fraction thereof, over 1,000

**910 Off-Street Loading Space Requirements**

In any district in connection with every building or part thereof hereafter erected and having a gross floor area of 3,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided in accordance with the following requirements:

- A. Retail/Service/Office Establishments: 1 space for the first 10,000 square feet of floor area; 1 space for the next 30,000 square feet; and 1 space for each additional 20,000 square feet.
- B. Truck Terminal/Warehouse/Wholesale Establishments: 1 space for every 7,500 square feet of floor area.
- C. Industrial Plants: 1 space for the first 10,000 square feet of floor area; and 1 space for each additional 20,000 square feet of space.

**911 Off-Street Loading Design Standards**

All off-street loading spaces shall comply with the following standards and specifications:

- A. Loading Space Dimensions: Each loading space shall have minimum dimensions not less than 12 feet in width, 65 feet in length, and a vertical clearance of not less than 14 feet.
- B. Screening: In addition to the setback requirements specified above, screening shall be provided on each side of an off-street loading space that abuts any Residential District. Screening shall comply with Section 402 District Regulations showing the Buffer and Transition Between Residential/Commercial and Residential/Industrial Zoned Properties.
- C. Access: All required off-street loading spaces shall have access from a public street in such a manner that any vehicle leaving the premises shall be traveling in a forward motion.
- D. Paving: All required off-street loading spaces together with driveways, aisles, and other circulation areas, shall be surfaced with an asphaltic or portland cement binder pavement in order to provide a durable or dust-free surface.
- E. Drainage: All loading spaces, together with driveways, aisles, and other circulation areas, shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways, or onto the public streets. Arrangements shall be made to ensure acceptable diversion to an adequate storm water drainage system. Drainage shall also meet the requirements of the Village of Mt. Orab Design Criteria and Construction Standards and Drawings.
- F. Lighting: Any lights used to illuminate a loading area shall be so arranged as to reflect the light away from adjoining property.

## ARTICLE 10 SIGNAGE

### 1001 Intent

The intent of this Section is to promote and protect public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more visually attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising clutter, distraction, and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of the natural environment, and enhance community development by permitting signs which are compatible with their surroundings.

### 1002 Governmental Signs Excluded

For the purpose of this Zoning Code, "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function, or required by any law, ordinance, or governmental regulation.

### 1003 General Requirements for All Signs and Districts

The regulations contained in this Section shall apply to all signs and all zoning districts.

- A. Any illuminated sign or lighting device shall employ only light emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public thoroughfare, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- B. No sign shall employ any parts or elements which revolve, rotate, whirl, spin, or otherwise make use of motion to attract attention. This Section and item "A" shall not apply to any sign performing a public service function indicating time, temperature, or similar services.
- C. All wiring, fittings, and materials used in the construction, connection, and operation of electrically illuminated signs shall be in accordance with the provisions of the applicable building and electrical codes.
- D. No projecting sign shall be erected or maintained from the front or face of a building a distance of more than 2 feet with 42-inch projection; 12 feet above grade.
- E. No sign shall be placed on the roof of any building, except those signs whose supporting structure is screened so the sign appears to be a continuation of the face of the building.
- F. No portable or temporary sign shall be placed on the front or face of a building or on any premises, except as provided in Section 1006 Temporary Signs.
- G. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving devices if the uses of such materials are determined to create a traffic hazard.
- H. No sign of any classification shall be installed, erected, or attached in any form, shape, or manner to a fire escape or any door or window giving access to any fire escape.

- I. Should any sign be or become unsafe or be in danger of falling, the owner thereof or the person maintaining the same shall, upon receipt of written notice from the Zoning Inspector, proceed at once to put such sign in a safe and secure condition or remove the sign.
- J. No sign shall be placed in any public right-of-way except publicly owned signs, such as traffic control signs and directional signs. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter, shall be permitted on any property.
- K. All signs shall be as designed and supported as to carry the weight of the sign and shall comply with any applicable building code.
- L. No advertising sign of any kind shall be attached to or supported by a tree, utility pole, trash receptacle, or public shelter.
- M. No sign shall contain words, images, or graphic illustrations of an obscene or indecent nature.
- N. No sign shall be attached in such a manner that it may interfere with any required ventilation openings.
- O. No sign shall be located on a vacant lot, except for the purpose of advertising the lot for sale or lease, or for such purpose as the notification of present danger or the prohibition of trespassing.
- P. No sign shall be located nearer than 8 feet vertically or 4 feet horizontally from any overhead electrical wires, conductors, or guy wires or as established in the National Electrical Safety Code, whichever standard is greater.
- Q. No vehicle or trailer may be parked on a business premises or a lot for the purpose of advertising a business, product, service, event, object, location, organization, or the like outside of business hours.
- R. All signs must be on-premises signs. Outdoor advertising and off-premises signs are not permitted within the Village unless approved by the Board of Zoning Appeals.

#### 1004 Permit Required

- A. No person shall locate or maintain any sign, or cause a sign to be located or maintained, unless all provisions of this Section have been met. To assure compliance with these regulations, a Zoning Permit issued pursuant to this Zoning Code shall be required for each sign unless specifically exempted in this Section.
- B. A sign initially approved for which a permit has been issued shall not be modified, altered, or replaced, nor shall design elements of any building or lot upon which such sign is maintained be modified, altered, or replaced if any such design element constituted a basis for approval of such sign unless a new or amended permit is obtained consistent with these regulations.
- C. The repainting, changing of parts, and preventive maintenance of signs shall not be deemed alterations requiring a Zoning Permit.

#### 1005 Signs Permitted in All Districts Not Requiring a Permit

The following signs shall be permitted in all districts without the required permit:

- A. Signs advertising the sale, lease, or rental of the premises upon which the sign is located, shall not exceed 12 square feet in area, except in all residential zoning districts where the area of the sign shall not be more than 6 square feet.
- B. Professional nameplates shall not exceed 4 square feet in area.
- C. Signs denoting the name and address of the occupants of the premises, not to exceed 2 square feet in area.
- D. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, schools, social clubs, or societies, which signs or bulletin boards shall not exceed 15 square feet in area, and which shall be located on the premises of such institution.
- E. Any sign advertising a commercial enterprise, including real estate developers or sub dividers, in a district zoned residential shall not exceed 32 square feet in area and shall advertise only the names of the owners, trade names, products sold and/or the business or activity conducted on the premises where such sign is located.

### **1006 Temporary Signs**

Temporary signs not exceeding 50 square feet in area, announcing special public or institutional events, the erection of a building, the architect, the engineer, the builders, or contractors may be erected for a period of 60 days plus the construction period. Such signs shall comply with all requirements of this Zoning Code. Temporary real estate signs shall be a maximum of 10 square feet.

### **1007 Political Signs**

No political sign shall be posted in any place or in any manner that is destructive to public property upon posting or removal. No political sign shall be posted in a public right-of-way, nor shall any such sign be posted on a utility pole. No political sign shall be posted more than 60 days before an election. All candidates for public office, their campaign committees, or other persons responsible for the posting on public property of campaign material shall remove such material within 5 calendar days following election day.

### **1008 Measurement of Sign Area**

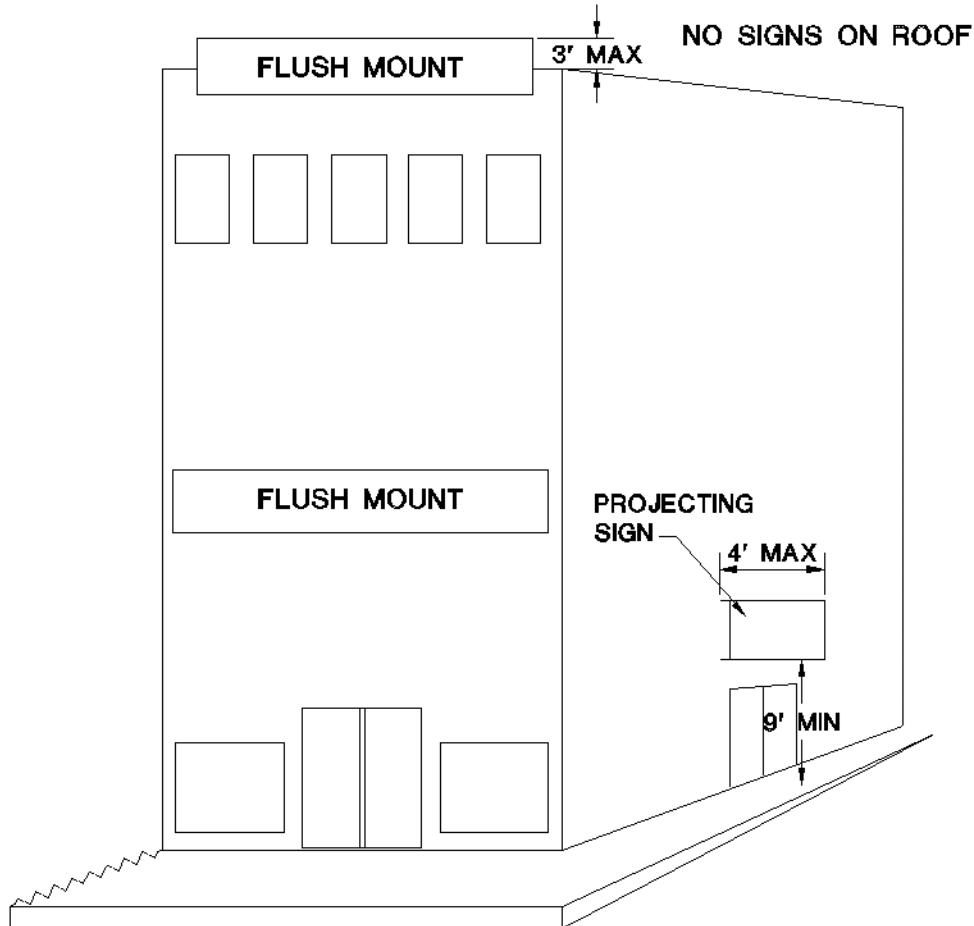
The area of a sign face shall be computed by means of the smallest circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the back drop or structure against which it is placed, but not including any supporting framework or housing.

### **1009 Business Signs**

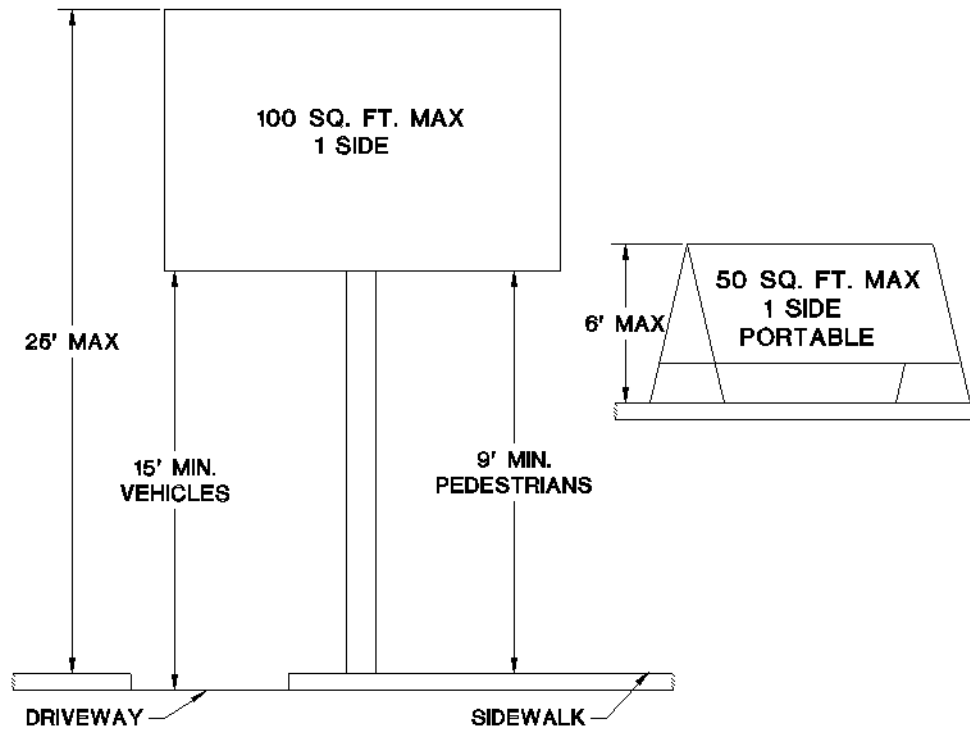
No exterior business sign shall be erected unless it is an accessory to a permitted use in the district in which the lot or parcel is located. All business signs shall be classified as one of the following: an attached sign, a detached sign, Interstate Signs, an architectural canopy sign, or an enter/exit sign.

- A. Attached Signs are signs which are physically attached to a building or fixed awning.
  - 1. The total area of all attached signs shall not exceed in the aggregate 1 square feet of area for each linear foot of lot width.
  - 2. A flush mount sign shall project not more the 2 feet horizontally from a building facade.

3. An attached sign shall project not more than 3 feet above the average height of the roof of the structure involved. However, no sign shall be erected on a roof.
4. An attached sign may project downward from a fixed awning only as far as shall allow 9 feet of vertical clearance from the ground to the bottom of the sign.

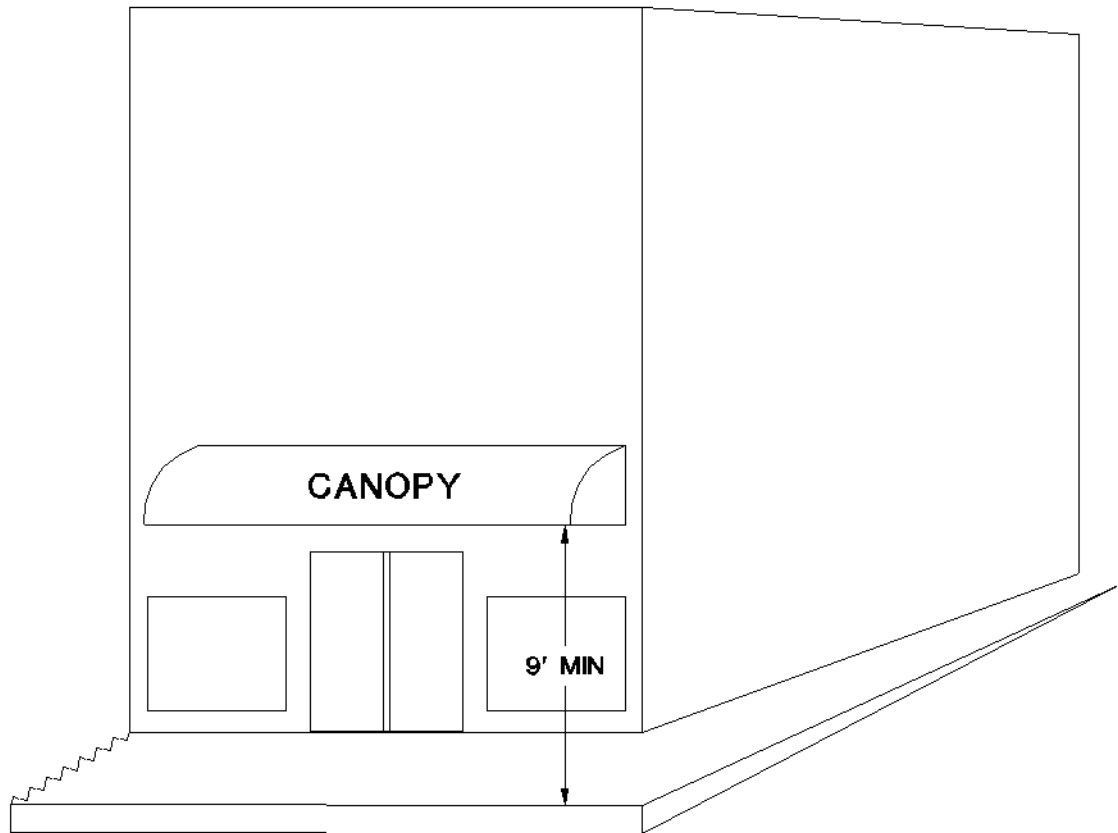


- B. Detached Signs are signs which are not attached to a building, advertise an on-premises business or activity, and are 25 feet or less in height. There shall not be more than one detached business sign per business activity along each street frontage the use abuts. Where commercial uses are located on the same property with common features, such as shopping centers or commercial complexes, all such business signs shall be supported by only one structure per lot with street frontage.
  1. Shall not be located on or project over any right-of-way or required setbacks;
  2. Shall not be larger than 100 square feet in area based on one side;
  3. Shall not be higher than 25 feet in height;
  4. Shall not obstruct or adversely affect vision clearance or traffic visibility;
  5. Shall not be closer than 25 feet to the adjacent lot; and



- C. Interstate Signs are signs not connected to a building, are less than 1200 feet from the centerline of an interstate highway right-of-way, are at least 25 feet in height, and are intended to be read from the interstate highway. A business may have 1 interstate sign in addition to any other permitted signs. An interstate sign shall:
1. Not be closer than 25 feet to any right-of-way line;
  2. Not be closer than 15 feet to any adjoining property line;
  3. Not be larger than 400 square feet in area; and
  4. Not be higher than 90 feet, measured from the ground elevation on which it is located.
- D. Architectural Canopy Signs are signs which are attached to a building with the message integrated into the canopy surface.
1. The total area of all architectural canopy signs shall not exceed in the aggregate 2 square feet of area for each linear foot of building frontage and, if combined with attached signs, the total area of all signage shall not exceed in the aggregate 3 square feet of area for each linear foot of building frontage.
  2. In applying sign area limits, only the area occupied by the sign message will be used. The sign area shall be the rectangular space occupied by lettering or insignia and the space immediately surrounding such lettering or insignia.
  3. An architectural canopy sign shall project not more than 3 feet horizontally from a building facade over a public right-of-way, and not more than 6 feet horizontally from a building facade over private property.

4. An architectural canopy sign shall have a minimum clearance of 9 feet above the sidewalk grade or edge of roadway grade nearest the sign and shall not be located closer than 2 feet from the curb of any roadway.
5. Architectural canopy signs shall be limited to single-story buildings or to the first level only of multi-story buildings, unless otherwise authorized by the BZA.
6. Overall height should not exceed 3 feet above the average height of the roofline or the parapet wall of the building to which it is attached and should not exceed the allowable building height for that zoning district.
7. Principal graphics, copy, logos, etc. shall be limited to the face or street side of the structure.
8. When an electric awning sign covers multiple store fronts, each store or tenant shall be allowed copy space no more than 80% of their store width in order to maintain adequate separation of tenant spaces.



- E. Enter/Exit Signs may be permitted in addition to detached business signs, subject to the following provisions:
1. All enter/exit signs shall comply with Section 1005 Signs Permitted in All Districts Not Requiring a Permit and no such sign shall be permitted in the right-of-way of any street or alley.

2. The area of enter/exit signs shall not exceed 2 square feet in area.
3. Not more than one enter sign and one exit sign shall be permitted for each lot. Corner lots may be permitted one additional enter and one additional exit sign provided there is an access to the public street on both street frontages.
4. No lettering or sign message other than "enter" or "exit" shall be permitted. The use of logos may be permitted if approved by the BZA.
5. The maximum height for an enter/exit sign shall be 3 feet and such signs shall not obstruct or adversely impact traffic visibility.

#### **1010 Attached Signs Pertaining to Nonconforming Uses**

On-premises wall signs pertaining to a nonconforming use shall be permitted on the same premises of such use, provided the area of such sign does not exceed 12 square feet.

#### **1011 Sign Setback Requirements**

Except as otherwise provided in this Section, on-premises signs, where permitted, shall be set back from the established right-of-way line of any street at least 10 feet.

- A. Real estate signs and bulletin boards for a church, school, or any other public, religious, or educational institution may be erected not less than 10 feet from the established right-of-way line of any street or highway provided such sign or bulletin board does not obstruct traffic visibility at street, highway or drive intersections.
- B. On-premises signs, where permitted, shall be erected or placed in conformity with the side and rear yard requirements of the district in which located, except that in any residential district, on-premises signs shall not be erected or placed within 10 feet of a side or rear lot line. If the requirement for a single side yard in the appropriate zoning district is more than 10 feet, the latter shall apply.

#### **1012 Maintenance**

All signs shall be maintained in safe and sound structural condition at all times and shall be presentable. The Zoning Inspector shall remove any off-premises advertising signs or billboards, or structures found to be unsafe or structurally unsound within 30 days of issuing a notification. The Zoning Inspector shall remove any on-premises sign which is determined to be unsafe or structurally unsound within 10 days of issuance of notification.

#### **1013 Nonconforming Signs and Structures**

Advertising signs and structures in existence prior to the effective date of this Zoning Code which violate or are otherwise not in conformance with the provisions of this Zoning Code shall be deemed nonconforming. All such legal nonconforming signs and structures shall be maintained in accordance with this Code. The burden of establishing the legal nonconforming status of any advertising sign or structure shall be upon the owner of the sign or structure.

#### **1014 Loss of Legal Nonconforming Status**

A legal nonconforming sign shall immediately lose its legal nonconforming status, and therefore must be brought into conformance with this Zoning Code or be removed, if the sign structure is altered; or if it is enlarged, relocated, replaced, or damaged; or if it is part of an establishment which discontinues operation for 90 consecutive days; or if it is structurally damaged to an extent greater than one-half of



its estimated replacement value. This Section does not apply to changes in sign copy or sign panel replacements. Similarly, any legal nonconforming advertising structure so damaged must be brought into compliance or be removed.

### **1015 Violations**

In case any sign shall be installed, erected, constructed, or maintained in violation of any of the terms of this Zoning Code, the Zoning Inspector shall notify in writing the property owner thereof to alter such sign so as to comply with this Zoning Code. Failure to comply with such notification shall be deemed a violation of this Zoning Code. Any signs erected in the right-of-way may be removed by the Zoning Inspector.

### **1016 Abandoned Signs**

A sign shall be considered abandoned:

- A. When the sign is associated with an abandoned use.
- B. When the sign remains after the termination of a business. A business is considered to have ceased operations if it is closed to the public for at least 90 consecutive days.
- C. When the sign on its immediate premises is not adequately maintained and the repairs or maintenance ordered are not affected within the specified time.
- D. Abandonment shall be determined by the Zoning Inspector. Upon determination that the sign is abandoned, the right to maintain and use such sign shall terminate immediately and the Zoning Inspector shall issue an order for the sign to be removed within 30 days of notifying the property owner. Any abandoned sign still standing after 30 days following an order for removal may be removed by the Village shall be deemed a violation and the cost of the removal billed to the owner of the property.

## ARTICLE 11 AMENDMENTS

### 1101 Intent

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

### 1102 Initiation of Zoning Amendments

Amendments to this Zoning Code may be initiated in one of the following ways:

- A. By the adoption of a motion by the Planning Commission.
- B. By the adoption of any amendment by the Village Council.
- C. By the filing of an application by at least 1 owner or lessee of property within the area proposed to be changed or affected by said amendment.

### 1103 Text Amendments and Changing of Zoning District

The Village Planning Commission and Village Council shall favorably consider an application for a text amendment, whether to the Zoning Regulation text or to the Official Zoning District Map, only if the request for a change of zoning meets the following conditions:

- A. Manifest error in the original Zoning Regulation text and/or designations on the Official Zoning District Map.
- B. Substantial change in area conditions.
- C. Legitimate requirement for additional land area for the particular zoning district.

### 1104 Contents of Application for Zoning Map Amendment

Applications for amendments to the Official Zoning Map adopted as part of this Zoning Code shall contain at least the following information:

- A. The name, address, and phone number of the applicant.
- B. The proposed amendment, approved as to form by the Village Solicitor.
- C. A statement of the reason(s) for the proposed amendment.
- D. Present use.
- E. Present zoning district.
- F. Proposed use.
- G. Proposed zoning district.
- H. A vicinity map at a scale approved by the Zoning Inspector showing property lines, thoroughfares, existing and proposed zoning, and such other items as the Zoning Inspector may require.
- I. A statement of the reason(s) for the proposed amendment.

- J. A list of all property owners and their mailing addresses who are within 200 feet, contiguous to, or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case, except that addresses need not be included where more than ten parcels are to be rezoned.
- K. A statement on the ways in which the proposed amendment relates to the comprehensive plan.
- L. A statement of the necessity of desirability of the proposed use to the neighborhood or community. Specific reason(s) justifying the application for amendment.
- M. A statement of the relationship of the proposed use to adjacent property and land use.
- N. Such other information regarding the property, proposed use, or surrounding area as may be pertinent to the application or required for appropriate action by the Versailles Planning Commission.
- O. A statement on the ways in which the proposed amendment relates to the Comprehensive Land Use Plan.
- P. A fee as established by the Village Council.

#### **1105 Contents of Application for Zoning Text Amendment**

Applications for amendments proposing to change, supplement, amend, or repeal any portion(s) of this Zoning Code, other than the Official Zoning Map, shall contain at least the following information:

- A. The name, address, and phone number of the applicant.
- B. The text of the proposed amendment, approved as to form by the Village Solicitor.
- C. A statement of the reason(s) for the proposed amendment.
- D. A statement explaining the ways in which the proposed amendment relates to the comprehensive plan.
- E. A fee as established by the Village Council.

#### **1106 Recommendation by Planning Commission**

Within 60 days from the receipt of the proposed amendment, the Planning Commission shall transmit its recommendation to the Village Council. The Planning Commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment as requested, or it may recommend that the amendment be denied. The written decision of the Planning Commission shall indicate the specific reason(s) upon which the recommendation is based, including the basis for their determination that the proposed amendment is or is not consistent with the Comprehensive Development Plan.

#### **1107 Public Hearing by Village Council**

Upon receipt of the recommendation from the Planning Commission, the Village Council shall schedule a public hearing. Said hearing shall be not more than 40 days from the receipt of the recommendation from the Planning Commission.

#### **1108 Notice of Public Hearing in Newspaper**

Notice of the public hearing shall be given by the Village Council by at least 1 publication in 1 or more newspaper of general circulation in the Village. Said notice shall be published at least 30 days before the

date of the hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

#### **1109 Notice to Property Owners by Village Council**

If the proposed amendment intends to rezone or redistrict 10 or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first-class mail, at least 20 days before the day of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list, and to such other list or lists that may be specified by Village Council. The failure to deliver the notification as provided in this Section shall not invalidate any such amendment. The notice shall contain the same information as required in Section 150.807 Notice of Public Hearing in Newspaper.

#### **1110 Action by Village Council**

Within 30 days after the public hearing required, the Village Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event the Village Council denies or modifies the recommendation of the Planning Commission, it must do so by not less than 3/4 of the full membership of Village Council. No such Zoning Code shall be passed unless it has been fully and distinctly read on 3 different days except that such Zoning Code may become emergency legislation if 3/4 of the members of the Village Council vote to dispense with this rule.

## ARTICLE 12 APPEALS AND VARIANCES

### 1201 Intent

Appeals and variances shall conform to the procedures and requirements of this Zoning Code. The BZA has appellate jurisdiction relative to appeals and variances.

### 1202 Administrative Appeals

- A. Appeals to the Board concerning interpretation or administration of this Zoning Code may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the Village affected by any decision of the Zoning Inspector. Such appeal shall be taken within 20 days after the decision by filing, with the Zoning Inspector and with the Board, a Notice of Appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. A record capable of transcription and containing all documents presented as evidence or utilized by the Board shall be made of any hearing held under this section.
- C. The Applicant shall be given notice in advance of the hearing that he has the following rights at any hearing held under this section.
  1. The right to be represented by an attorney or any other person of his choosing;
  2. The right to present his position, arguments, and contentions;
  3. The right to offer and examine witnesses and present evidence in support of his appeal;
  4. The right to cross examine witnesses purporting to refute his position, arguments, and contentions;
  5. The right to offer evidence to refute evidence and testimony offered in opposition to the Appellant's position, arguments, and contentions.
  6. Proffer such evidence into the record, if the admission of it is denied by the Board.
- D. All testimony given at a hearing under this section shall be given under oath.
- E. Per the request of the Appellant, the Board shall upon reasonable notice and with reasonable discretion assist the Appellant in compelling the attendance of a witness at a hearing under this section utilizing any powers it may have to compel the attendance of a witness.

### 1203 Variances

The BZA may authorize upon appeal in specific cases such variance from the terms of this Zoning Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Zoning Code would result in unnecessary hardship. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Zoning Code would result in unnecessary hardship for use variance and practical difficulties for area variances.

## 1204 Conditions for Variance

No variance shall be granted unless the Board finds that all of the following conditions exist:

- A. The special circumstances or conditions applying to the building or land in question are peculiar to such lot or property, and do not result from the actions of the applicant and do not apply generally to other land or buildings in the vicinity.
- B. The granting of the application is necessary for the preservation and enjoyment of the substantial property right and not merely to serve as a convenience to the applicant.
- C. The proposed variance will not constitute a change, including a variation in use, on the Official Zoning District Map. In no case shall the BZA approve a variance for a use which is not a permitted use in the zoning district in which the property, building, or structure is located.

## 1205 Application and Standards for Variances

Except as otherwise permitted in this Zoning Code, no variance in the strict application of the provisions of this Zoning Code shall be granted by the BZA unless the BZA shall find that the written application for the requested variance contains all of the following requirements:

- A. Name, address, and phone number of applicant(s).
- B. Plat Plan – The appeal shall be accompanied by three (3) copies of a plot plan drawn to an appropriate scale showing the following:
  - 1. The boundaries and dimensions of the lot.
  - 2. The size and location of existing and proposed structures.
  - 3. The proposed use of all parts of the lot and structures, including access ways, walks, off-street parking and loading spaces and landscaping.
  - 4. The relationship of the requested variance to the standards set by the Zoning Ordinance.
  - 5. The use of land and location of structures on adjacent property.
- C. Legal description of property.
- D. Description or nature of variance requested.
- E. A fee as established by this Zoning Code.
- F. A list of all property owners and their mailing addresses who are within 200 feet of the parcel requesting variance.
- G. Narrative statements establishing and substantiating that the variance conforms to the following standards:
  - 1. The granting of the variance shall be in accord with the general purpose and intent of the regulations imposed by this Zoning Code on the district in which it is located and shall not be injurious to the area or otherwise detrimental to public welfare.
  - 2. The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.
  - 3. There must exist special circumstances or conditions, fully described in the findings, applicable to the land or buildings for which the variance is sought, which are peculiar to

such land or buildings and do not apply generally to land or buildings in the area, and which are such that the strict application of the provisions of this Zoning Code would deprive the applicant of the reasonable use of such land or building. Mere loss in value shall not justify a variance; there must be deprivation of beneficial use of land.

4. There must be proof of hardship or practical difficulty created by the strict application of this Zoning Code. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Zoning Code; it must be suffered directly by the property in question; and evidence of variances granted under similar circumstances need not be considered.
5. The granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted is the minimum variance that will accomplish this purpose.
6. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area.
7. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

#### **1206 Additional Conditions and Safeguards**

The BZA may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Zoning Code.

#### **1207 Public Hearing by the Board of Zoning Appeals**

The BZA shall hold a public hearing within 30 days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

#### **1208 Notice of Public Hearing in Newspaper**

Before conducting the public hearing required, notice of such hearing shall be given in 1 or more newspapers of general circulation in the Village at least 10 days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed appeal or variance.

#### **1209 Notice to Parties in Interest**

Before conducting the public hearing required, written notice of such hearing shall be mailed by the Chairman of the Board, by first-class mail, at least 10 days before the day of the hearing to all parties of interest within 200 feet. The failure to deliver the notification as provided in this Section shall not

invalidate any such action. The notice shall contain the same information as required in Section 1208 Notice of Public Hearing in a Newspaper.

### **1210 Action by Board of Zoning Appeals**

Within 30 days after the public hearing requires, the BZA shall either approve, approve with supplemental conditions as specified in Section 5 Additional Conditions and Safeguards, or disapprove the request for appeal or variance. The BZA shall further make a finding in writing that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure.

### **1211 Term of Variance**

No order of the BZA granting a variance shall be valid for a period longer than 12 months from the date of such order unless the Zoning Permit or zoning approval is obtained within such period, and the erection or alteration of a building is started, or the use is commenced within such period.

### **1212 Authorized Variances**

Variances from the requirements of this Zoning Code shall not be granted unless the Board makes specific findings of fact, based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed by this Zoning Code, have been met by the applicant. Variances may be granted as guided by the following:

- A. To permit any yard or setback less than the yard or setback required by the applicable regulations.
- B. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but generally the respective area and width of the lot or lots should not be less than 80% of the required area and width.
- C. To permit the same off-street parking facility to qualify as required facilities for 2 or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
- D. To reduce the applicable off-street parking or loading facilities required, but generally by not more than 30% of the required facilities.
- E. To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance.
- F. To increase the maximum distance that required parking spaces are permitted to be located from the use served, but generally not more than 40%.
- G. To increase the maximum allowable size or area of signs on a lot, but generally by not more than 25%.
- H. To increase the maximum gross floor area of any use so limited by the applicable regulations, but generally not more than 25%.



## ARTICLE 13 ADMINISTRATION

### 1301 Intent

The intent is to set forth the powers and duties of the Planning Commission, the BZA, the Village Council, and the Zoning Inspector with respect to the administration of the provisions of this Zoning Code.

### 1302 General Provisions

The formulation, administration, and enforcement of the Zoning Code is hereby vested in the following offices and bodies within the Village of Mt. Orab government:

- A. Zoning Inspector
- B. Planning Commission
- C. Board of Zoning Appeals
- D. Village Council

### 1303 Zoning Inspector

A Zoning Inspector designated by the Mayor and approved by the Village Council shall administer and enforce this Zoning Code. The Officer may be provided with the assistance of such other persons as the Mayor may direct.

### 1304 Responsibilities of Zoning Inspector

For the purpose of this Zoning Code, the Zoning Inspector shall have the following duties:

- A. Enforce the provisions of this Zoning Code and interpret the meaning and application of its provisions.
- B. Respond to questions concerning applications for amendments to the Zoning Code text and the Official Zoning District Map.
- C. Issue Zoning Permits and certificates of occupancy as provided by this Zoning Code and keep a record of same with a notation of any special conditions involved.
- D. Act on all applications upon which the Officer is authorized to act by the provisions of this Zoning Code within the specified time or notify the applicant in writing of the Officer's refusal or disapproval of such application and the reasons therefore. Failure to notify the applicant in case of such refusal or disapproval within the specified time shall entitle the applicant to submit the Officer's request to the BZA.
- E. Conduct inspections of buildings and uses of land to determine compliance with this Zoning Code, and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
- F. Maintain in current status the Official Zoning District Map which shall be kept on permanent display in the Village offices.
- G. Maintain permanent and current records required by this Zoning Code, including but not limited to, Zoning Permits, zoning certificates, inspection documents, and records of all variances, amendments, and special uses.

- H. Make such records available for the use of the Village Council, the Planning Commission, the BZA, and the public.
- I. Along with the designated Village Engineer, shall Review and approve site plans pursuant to this Zoning Code and per the Village Site and Subdivision Regulations as part of the Zoning Permit.
- J. Review the Site Development & Subdivision Regulations as a condition of approving a zoning permit.
- K. Determine the existence of any violations of this Zoning Code, and cause such notifications, or initiate such other administrative or legal action as needed, to address such violations.

### 1305 Duties of the Planning Commission

For the purpose of this Zoning Code the Planning Commission shall have the following duties:

- A. Recommend modifications to the proposed Zoning Code, including text and Official Zoning District Map to the Village Council for formal adoption.
- B. Initiate advisable Official Zoning District Map changes, or changes in the text of the Zoning Code where some will promote the best interest of the public in general through recommendation to the Village Council.
- C. Review all proposed amendments to the text of this Zoning Code and the Official Zoning District Map and make recommendations to the Village Council as specified in Section 11 Amendments.
- D. Review all Planned Unit Development applications and make recommendations to the Village Council as provided in this Zoning Code.
- E. Review all special uses as identified in the respective zoning districts according to provisions and criteria stated in this Zoning Code.
- F. Carry on a continuous review of the effectiveness and appropriateness of this Zoning Code and recommend such changes or amendments as it feels would be appropriate.

### 1306 Duties of the Board of Zoning Appeals

The BZA has the following specific responsibilities:

- A. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made in the enforcement of this Zoning Regulation.
- B. Authorize such variances from the terms of this Zoning Regulation.
- C. Hear and decide Conditional Uses as set forth in this Zoning Regulation.
- D. Review and recommend zoning changes and amendments.
- E. Review all special uses as identified in the respective zoning districts according to provisions and criteria stated in this Zoning Regulation.
- F. Nonconforming uses as provided in this Zoning Regulation.
- G. Determination of Similar Uses  
To determine if uses not specifically mention in this Ordinance are similar to uses permitted within a district.
- H. Determination of District Boundary Locations

To determine the exact location of any district boundary if there is uncertainty as to the exact boundary, the Board shall be guided to provisions in this Zoning Regulation.

### 1307 Village Council

The powers and duties of the Village Council pertaining to the Zoning Code are as follows:

- A. Approve the appointments of members to the Planning Commission by the Mayor.
- B. Approve the appointments of members to the BZA by the Mayor.
- C. Initiate or act upon recommended amendments to the Zoning Code text or Official Zoning District Map. Final action upon a recommended zoning amendment shall be undertaken at a public hearing.
- D. Override a written recommendation of the Planning Commission on a text or map amendment provided that such legislative action is passed by a vote of not less than 3/4 of the Village Council.

### 1308 Schedule of Fees

The Village of Mt. Orab shall establish permit forms and a schedule of fees, adopted by Council.

Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

List all Forms that have a fee.

Such fees shall be waived under the following circumstances:

- A. When an appeal is made by a political subdivisions or instrumentality thereof.
- B. When an appeal is the result of property acquisition by a political subdivision.

Such fees may be reduced or waived only by the Village Council.

All fees shall be paid by Cash, Check or Credit Card and shall not be refundable.

## ARTICLE 14 ZONING PERMIT REQUIREMENTS AND ENFORCEMENT

### 1401 Intent

The intent is to stipulate the procedures to be followed in obtaining permits, and other legal or administrative approvals under this Zoning Code.

### 1402 Recommended Contents of Application for Zoning Permits

The Application for Zoning Permit shall be made in writing and be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within 1 year or substantially completed within 2 years. At a minimum, the application shall contain the following information, if applicable to a particular use, and be accompanied by all required fees:

- A. Name, address, and phone number of owner.
- B. Legal description of property or lot number and must include directions to the nearest state highway.
- C. Existing use.
- D. Proposed use.
- E. Zoning District.
- F. Plans drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration.
- G. Building heights.
- H. Number of off-street parking spaces or loading berths, and their layout.
- I. Location and design of access drives.
- J. Number of dwelling units.
- K. Signage information, if applying for a Zoning Permit for a sign.
- L. If applicable, application for a Conditional Use Permit, or a Temporary Use Permit, or variance.
- M. Such other documentation as may be necessary to determine conformance with, and to provide for the enforcement of this Zoning Code.
- N. Site plan in triplicate may be required. Contents stated in Section 1404 Site Plan Required Contents for any new construction, of any principally or conditionally permitted use, except single-family and two-family dwellings.
- O. Plans showing that the residential unit meets the residential design and appearance standards in Section 520 Residential Design and Appearance Standards.
- P. Type of dust-free, hard -surface.

### 1403 Site Plan Required Contents

A site plan submission shall contain all of the following when deemed to be reasonably appropriate by the Zoning Inspector:

- A. The accurate dimensions and size of the site area as well as the topography of the site and immediately adjoining lands within 50 feet of the property line at 1-foot intervals.
- B. The locations and dimensions of all existing and proposed streets, courts and pedestrian walkways within and abutting the site, as well as the location, size, and means of ingress and egress of all off-street loading and parking areas. The location and arrangements of the parking areas and access shall also be shown, and the means of defining parking areas and access lanes, via curbs, bumper blocks, railroad ties, or physical obstructions or other methods approved by the Village Engineer, shall be illustrated. All proposed signs shall be shown, detailing location, dimensions, height and, where applicable, verbiage.
- C. The location and size of all existing and proposed buildings and structures within the site and on adjoining lands, within 50 feet of the property line, as well as the existing or proposed use of such building or structure, including the number, type, and floor area of commercial uses to be accommodated in each.
- D. A complete utilities plan, providing electric, gas, telephone, cable television, storm sewer, water, and sanitary sewer services, including connections to existing service lines and existing and proposed easements. Such plans shall comply with the Village of Mt. Orab Design Criteria and Construction Standards and Drawings.
- E. The location, size, and type of fire hydrants; building plans; fire suppression system plans; fire department access areas; and fire lane signage. Such plans shall comply with state and local Building and Fire Codes and shall be approved by the Fire Chief (or authorized representative),
- F. A grading and drainage plan to illustrate proposed grading of the site and methods used to comply with Village storm water runoff, erosion, and sediment control specifications found in the Village of Mt. Orab Design Criteria and Construction Standards and Drawings.
- G. A landscaping plan showing the location and types of screen planting, buffer areas, manmade screening, and other features, which shall enhance the site.
- H. An exterior lighting plan showing the location of lighting fixtures, their type and output as well as the proposed radius of lighted area for each fixture.
- I. The proposed internal vehicular circulation of access roads shall be delineated and related to connections with public streets. Existing and proposed traffic patterns and volumes and the anticipated effect on existing public streets serving the site shall be provided for the Village Engineer's review. Complexes shall provide curb or other types of internal access lane separations for parking spaces to assist in internal circulation and parking area delineation.
- J. The division of the development into sections shall be delineated if staged construction is contemplated, as well as which parking areas and other improvements shall be provided for each stage of development.
- K. Proposed complexes designed for condominium, cooperative, or other multiple ownership arrangements shall indicate proposed individual, joint, or common ownership areas to assure maintenance and operation of common features such as lighting and parking facilities. Any arrangements requiring subdivision approval shall also be subject to the Subdivision Regulations.

#### **1404 Approval of Zoning Permit**

Within 30 days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in accordance with the provisions of this Zoning Code. All Zoning Permits shall, however, be conditional upon the commencement of work within 1 year and completed within 2 years, up to 5 years for industrial projects. A request for a 1 year extension may be made to the Board of Zoning Appeals (BZA). One copy of the permit shall be returned to the applicant by the Zoning Inspector, after the Zoning Inspector shall have marked such copy either as approved or disapproved and attested to same by the Officer's signature on such copy. One copy of the plans, similarly marked, shall be retained by the Zoning Inspector. The Zoning Inspector shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the activity is in conformance with the provisions of this Zoning Code.

#### **1405 Failure to Obtain a Zoning Permit**

Failure to obtain a Zoning Permit shall be a punishable violation of this Zoning Code. The fine shall be double the permit fee.

#### **1406 Construction and Use to be as provided in Applications, Plans, and Permit**

Zoning Permits issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a punishable violation of this Zoning Code.

#### **1407 Entry and Inspection of Property**

The Zoning Inspector is authorized to make inspections of properties and structures in order to examine and survey the same, at any reasonable hour, for the purpose of enforcing the provisions of this Zoning Regulation. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Inspector shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Inspector shall request the assistance of the Solicitor in securing a valid search warrant prior to entry.

#### **1408 Stop Work Order**

Subsequent to the determination that work is being done contrary to this Zoning Regulation, the Zoning Inspector shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Zoning Inspector, shall constitute a punishable violation of this Zoning Regulation.

#### **1409 Zoning Permit Revocation**

The Zoning Inspector may issue a revocation notice to revoke a permit or administrative approval which was issued contrary to this Zoning Regulation or based upon false information or misrepresentation in the application.

#### **1410 Complaints Regarding Violations**

Whenever a violation of this Zoning Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the

Zoning Inspector. The Zoning Inspector shall record properly such complaint, immediately investigate it, and take action thereon as provided by this Zoning Code.

#### **1411 Notice of Violation**

When the Zoning Inspector or the Officer's agent determines that there is a violation of any provision of this Zoning Code, a warning letter shall be issued and shall serve as a notice of violation. Such order shall:

- A. Be in writing.
- B. Identify the violation.
- C. Include a statement of the reason or reasons why it is being issued and refer to the sections of this Zoning Code being violated.
- D. State the time by which the violation shall be corrected.

Service of notice of violation shall be as follows:

- A. By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of suitable age and discretion; or
- B. Certified mail deposited in the United States Post Office addressed to the person or persons responsible at a last known address. If a certified mail envelope is returned with endorsement showing that the envelope is refused or is unclaimed, then service shall be sent by ordinary mail, and the mailing shall be evidenced by proof of mailing which shall be filed by the Zoning Inspector. Service shall be deemed complete when the fact of mailing is entered of record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery; or
- C. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

#### **1412 Penalties and Fines**

Reference Village of Mt. Orab Ordinance 1270 for penalties for zoning violations.

#### **1413 Additional Remedies**

Nothing in this Zoning Code shall be deemed to abolish, impair, or prevent other additional remedies as provided by law. In the event of a violation of any provision or requirement of this Zoning Code, or in the case of an imminent threat of such a violation, the Zoning Inspector, the Village Solicitor, or the owner of any neighboring property who would be especially damaged by such violation, may, in addition to other recourses provided by law, institute mandamus, injunction, abatement, or other appropriate actions to prevent, remove, abate, enjoin, or terminate such violation.

**Appendix A**

**ORDINANCE No. \_\_\_\_975\_\_\_\_**

**ORDINANCE TO REGULATE NOISE IN THE VILLAGE OF MT. ORAB**

**WHEREAS**, it is the objective of the Village of Mt. Orab to promote the peace and quiet enjoyment of residential neighborhoods: **and**

**WHEREAS**, there are presently limited remedies available to the Village of Mt. Orab to promote these goals of peace and quiet enjoyment of residential neighborhoods: **and**

**WHEREAS**, this ORDINANCE \_\_\_\_975\_\_\_\_ will allow for the immediate enforcement of noise violations in areas zoned residential using a clearly objective standard: **and**

**WHEREAS**, it is the objective of the Village of Mt. Orab to provide the most efficient delivery of Village services possible to its neighborhoods: **and**

**WHEREAS**, it is deemed necessary and advisable to undertake the aforementioned actions for the preservation of the public health, peace, property, safety and welfare:

**BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MT. ORAB**

Section 1. That the Ohio Basic Code 2009 Edition adopted by the Village is hereby supplemented as follows and shall remain in full force and effect as new additions of the Ohio Basic Code are adopted in the future unless this Ordinance is specifically repealed:

**Community noise,**

(A) Definitions. All definitions/ terminology used in this chapter, not defined below, shall be in conformance with applicable standards of the American National Standards Institute (ANSI) or its successor body. For the purpose of this chapter certain words and phrases used herein are defined as follows:



- (1) "Auditory Device" means any device that can be used to create a sound that can be heard.
- (2) "Average sound level" means a sound level typical of the sound levels observed at certain place during a given period of time averaged by the general rule of combination for sound levels, said general rule being set forth in ANSI specifications for sound level meters. Average sound level is also called equivalent continuous sound level.
- (3) "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, excluding demolition for or on public or private rights of way, private property, structures, utilities or similar property.
- (4) "Decibel" means a unit for measuring the intensity of a sound, equal to 20 times the logarithm to the base 10 of the ratio of pressure of the sound measured to the reference pressure, which is 20 micropascals. Decibel is denoted as "dB"
- (5) "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right of way surfaces or similar property.
- (6) "Device" means any system or machine devised or constructed to perform one or more tasks.
- (7) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.
- (8) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (9) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In case where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.
- (10) "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.
- (11) "Land use category" means those land uses defined and established by the Zoning Code and all subsequent changes and additions.
- (12) "Loud or raucous noise" means any noise or sound that emanates in such manners and/or volume and is of such intensity, character and duration to be offensive or disturbing to a person of ordinary sensibilities.
- (13) "Machine" means any system or device together with its power source and auxiliary equipment used to accomplish a specific objective.
- (14) "Motor Vehicle" means every vehicle as defined in Section of the Ohio Basic Code.
- (15) "Motorcycle" means every vehicle as defined in Section 70.01 of the Ohio Basic Code Code.

(16) "Muffler or sound dissipative device" means a device for abating the sound of escaping bases of an internal combustion engine.

(17) "Musical Instrument" means any device designed to produce music

(18) "Noise" means any sound which annoys or disturbs humans or which cause or tends to cause an adverse psychological or physiological effect on humans.

(19) "Noise disturbance" means any sound which endangers or injures the safety or health of humans or animals, annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.

(20) "Persons" means any individual, association, partnership or corporation and includes any officer, employer, department, agency or instrumentality of a state or any political subdivision of a state.

(21) "Place of public entertainment" means any commercial facility open to the general public for purposes of entertainment.

(22) "Powered model vehicle" means any self propelled airborne, waterborne, or land borne plane, vessel or vehicle which is not designated to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

(23) "Property line" means the line along the ground surface, and its vertical extension, which separates the real property owned, rented, leased or occupied by one of more persons from that owned, rented, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who own, rents, leases, or otherwise occupies and apartment, condominium, hotel or motel room, or any other type of occupancy.

(24) "Property zoned residential" means any area zoned or utilized for residential purposes.

(25) "Public right of way" means any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

(26) "Public space" means any real property or structure thereon which is owned or controlled by a governmental entity.

(27) "Real property boundary" means an imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

(28) "Residential area" means those areas so specified in the Zoning Code.

(29) "Retail area" means those areas so specified in the Zoning Code.

(30) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of such medium. The description of sound may include not an characteristic of such sound, including duration, intensity and frequency.

(31) "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A,B, or C as specified in American National

Standards Institute specifications for sound level meters (ANSI S14-1971), or the latest approved revision thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.

(32) “Sound level meter” means an instrument which includes a microphone, amplifier, RMS detector, integrator of time average, output meter and weighting networks used to measure sound pressure levels.

(33) “Sound amplification system” means any device used for the amplification of the human voice, music, or other sound and includes, but is not limited to , any radio, tape player, compact disc player or loud speaker.

(34) “Sound Pressure” means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

(35) “Sound pressure level” means twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of twenty micropascals (20x10<sup>-6</sup>N m<sup>2</sup>.) The sound pressure level is denoted in LP or SPL and is expressed in decibels.

(36) “Stationary sound source” means a machine or device capable of creating a noise level at the property upon which it is regularly located, including , but not limited to standing motor vehicles, industrial and commercial process machinery and equipment, pumps, fans, air-conditioning apparatus or refrigeration machines.

(37) “Warning device” means any device, which signals an unsafe or potentially dangerous situation.

(B) Sound levels for land use districts.

(1) The maximum allowable sound level, emitted from any sound source, auditory device, or sound amplifications system shall not exceed the limits set forth in Table 1 for the respective categories of receiving land use. The actual sound level shall be determined during any measurement period, which shall not be less than five (5) consecutive minutes, and shall be measured at the property boundary affected by the sound.

**Table 1**

<b>Receiving Land Use Category</b>	<b>Time</b>	<b>5 min. Average Sound Level</b>
<b>Residential (all categories)</b>	<b>10 pm- 7 am</b>	<b>65</b>
	<b>7am – 10 pm</b>	<b>70</b>

(C) Prohibited sounds:

(1) No person shall make or allow to be made any unreasonably loud and/or raucous noise in such a manner or at such a volume as to disturb the quiet, comfort, or repose in a residential zoned area of a person of ordinary sensibilities. Strict liability is intended to be imposed for this section.

(2) In addition to the prohibition set out in (C) (1), the following specific acts are declared to be in violation of this ordinance:

(a) No person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source from the real property that is zoned residential in a manner as to be heard at a distance of 15 feet beyond the property line of the property from which the sound emanates. Strict liability is intended to be imposed for this section.

(b) Where there are two or more residential units contained within one structure within a property zoned residential, no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source in a manner as to be heard within said structure at a distance of 5 feet beyond the property line of the residential unit from which the sound emanates. Strict liability is intended to be imposed for this section.

(c) Where there are adjoining properties that are zoned residential, each of which has a residential unit, and where the residential units are located within 50 feet of one another, no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source in a manner as to be heard at a distance of 5 feet onto the adjoining residential property. Strict liability is intended to be imposed for this section.

(d) Sound levels omitted or coming from properties zoned commercial or industrial onto properties zoned residential by the Mt. Orab Zoning ordinance shall not exceed 70 db for the hours of 10:00 pm – 7:00 am and 75 db for the hours of 7:00 am – 10:00 pm.

(D) Special provisions

(1) The provisions of this Ordinance shall not apply to the following:

(a) The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

(b) Warning devices necessary for the protection of public safety.

(c) The emission of sound from property zoned residential that is periodically generated by activities required to maintain the property in compliance with housing, building, zoning, fire, safety, health or sanitation codes and which occurs between the hours of 8 am to 10 pm.

(d) The provisions of this ordinance shall not apply to organized school related programs, activities or events, to municipally authorized parades or to municipally sanctioned concerts or events on public property.

(e) Non commercial public speaking and public assembly activities conducted on any public space or public right of way are exempt from this section.

(E) Inspection

(1) The appropriate authority may inspect upon consent, at any reasonable time and in a reasonable manner, any device or mechanism, which creates any disturbing noise, including but not limited to the premises where such device or mechanism is used.

(2) If entry to the premises is denied or refused, the appropriate authority shall obtain an inspection warrant from a court of competent jurisdiction.

(b) Whoever violates this section is guilty of a minor misdemeanor, provided the violation is not committed willfully or knowingly, in which case it is a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in

SPECIFIC PROHIBITIONS.

(a) No person shall commit any of the following acts or cause or permit the same to be committed:

(1) Animals and birds. Own, possess or harbor any animal or bird which frequently or for continued duration howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential real property boundary.

(2) Explosives, firearms and similar devices. Use or fire explosives, firearms or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right of way, without first obtaining a special variance therefore.

(3) Vehicle or motorboat repairs and testing. Repair, rebuild, modify or test any motor vehicle, motorcycle, or motorboat in such manner as to cause a noise disturbance across a residential real property boundary.

(4) Adequate mufflers or sound dissipative devices.

(A) Operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.

(B) Remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle. Or

(C) Discharge into the open air the exhaust of any steam engine, stationary internal combustion engine or motorboat, except through a muffler or other device in good working order and in constant operation.

(5) Motor Vehicles

(A) Operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, between the hours of 9:00pm and 8:00am the following day. or

(B) Race the motor of any vehicle unnecessarily or operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the pavement of other surface, commonly called "peeling".

(6) Loading and unloading. Load, unload, open, close or otherwise handle boxes, crates, containers, building material, garbage cans or similar objects between the hours of 9:00pm and 8:00am the following day in such a manner as to cause a noise disturbance across a residential real property boundary.

(7) Construction. Operate or permit the operation of heavy machinery and equipment used in land improvement, construction, clearing of trees, installation of utilities, roadways and sidewalks, drilling or demolition work, between the hours of 8:00 pm and 8:00am of the following day, after 5:00 pm Saturday, at any time on Sunday, such that that sound creates a noise disturbance across a residential real property boundary, except for emergency work of public service utilities and except for the use of domestic power tools subject to paragraph (a) (11) hereof.

(8) Emergency signaling devices.

(A) Intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing.

(B) Test a stationary emergency signaling device, except at the same time of day each time such a test is performed, but not before 8:00 am, nor after 9:00 p.m. or the closing time of a commercial establishment, whichever occurs later, and using only the minimum cycle test time, in no case to exceed sixty seconds.

(C) Test the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, except after 8:00 am or before 9:00 p.m., and in no case to exceed a test time of ten minutes

(D) Sound or permit the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within two minutes of activation or within a reasonable time after notification of activation; or

(E) Sound any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space, except as a warning of danger.

(9) Radios, audio systems or other sound amplifying devices or systems.

(A) Play or operate any radio, music player, audio system, tape player, compact disc player or other sound-amplifying device or system in such an unreasonable manner or at such an unreasonable volume as to annoy or disturb the quiet, comfort or repose of neighboring inhabitants, or at a volume which is plainly audible to persons other than those who are in the single-family unit located within a multifamily dwelling from which the sound is emitting or who are beyond the residential real property boundary of the lot from which the sound is emitting.

(B) Play or operate, or permit the playing or operation of, any radio, music player, audio system, tape player, compact disc player or other sound-amplifying device or system, which can be heard outside a motor vehicle from ten or more feet away when the vehicle is being operated upon a public street, highway or any other public place.

(10) Loudspeakers; public address systems. Use, operate or permit the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound there from on a public right of way or public space for any purpose whatsoever.

(11) Domestic power tools. Operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool or other similar device used outdoors, other than powered snow removal equipment, in residential areas between the hours of 8:00 p.m. and 8:00 a.m. the following day. On weekdays and before 10:00 a.m. or after 5:00 p.m. on Saturday or Sunday, so as to cause a noise disturbance across a residential real property boundary.

(12) Powered model vehicles.

(A) Operate or permit the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary in a public space between the hours of 9:00 p.m. and 8:00 a.m. the following day;

(B) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor, provided the violation is not committed willfully or knowingly, in which case it is a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

#### EXEMPTIONS.

(B) The provisions shall not apply to organized school-related programs, activities or events, to municipally authorized parades or to municipally sanctioned concerts in public parks.

(C) The provisions of shall not apply to:

- (1) Activities covered by paragraphs (a) (3), (8), (9) and (12) of Section 634.04;
- (2) Refuse collection vehicles; and
- (3) Railway locomotives and cars.

#### MOTOR VEHICLES AND MOTORCYCLES ON PUBLIC RIGHTS OF WAY.

(A) No person shall operate, cause to be operated or permit a public or private motor vehicle or motorcycle on a public right of way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table 2 herein.

**TABLE 2**

**MOTOR VEHICLE AND MOTORCYCLE SOUND LIMITS**

Vehicle Class	Sound Level in dBA		Stationary Run-up		
	Speed limit 35 MPH or less (measured at 50 ft.)	Speed limit over 35 MPH (measured at 50 ft.)	Stationary Engine Speed	Microphone Distance from Vehicle	Noise Limit dBA
Motor carrier vehicle of GVWR or GCWR of 10,000 lbs. or more	86	90	For vehicles with governors, test at maximum governor speed. For vehicles without governors, test at 75% of motor speed at maximum developed horsepower.	50 feet from center line of vehicle.	88
Any motorcycle	80	85	Test at 75% of motor speed of maximum developed horsepower.	20 inches from rear side of vehicle.	101
Any other motor vehicle or any combination of vehicles towed by any motor vehicle.	75	80	Test at 3,000 RPM	20 inches from end of tailpipe	90

vehicle

**INSPECTIONS OF PRIVATE PROPERTY**

The Chief of Police and/or law enforcement officers, in addition to any other authority vested in them, are hereby authorized, upon presentation of proper credentials, to enter and inspect any private property or place and to inspect any report or records at any reasonable time when granted permission by the owner or some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause that a violation of this chapter exists. Such inspection may include the administration of any necessary tests.

**STOPPING AND TESTING MOTOR VEHICLES AND MOTORCYCLES.**

Law enforcement officers, in addition to any other authority vested in them, are hereby authorized to stop and test any motor vehicle or motorcycle which is operated on a public right of way or public space and which is reasonably suspected of violating any provision of this chapter, and to issue a notice of violation or an abatement order.

**EXCEPTIONS FOR EMERGENCIES.**

The provisions of this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work.



## SPECIAL VARIANCES.

(a)The Chief of Police is hereby authorized to grant special variances pursuant to this section.

(b)Any person seeking a special variance pursuant to this section shall file an application therefore with the Chief of Police. The application shall contain information which demonstrates that bringing into compliance with this chapter the source of sound or activity for which the special variance is sought would constitute an unreasonable hardship on the applicant, on the community or on other persons. Notice of an application for a special variance shall be given by the Chief of Police to persons who frequent the area of the sound or activity and who may be adversely affected by the granting of the variance. Any individual who claims to be adversely affected by the allowance of the special variance may file a statement with the Chief of Police containing any information to support his or her claim.

(c) In determining whether to grant or deny the application, the shall balance the hardship that is occasioned to the applicant, the community and other persons by not granting the special variance, against the adverse impact on the health, safety and welfare of persons affected and on property affected, and any other adverse impacts occasioned by granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the may reasonably require. In granting or denying an application, the Building Commissioner shall place on public file a copy of the decision and the reasons for denying or granting the special variance.

(d)Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate the same and subject the person holding it to those provisions of this chapter which regulate the source of sound or activity for which the special variance was granted.

(e)Application for an extension of the time limits specified in special variances or for modification of other substantial conditions shall be treated like an application for an initial special variance.

(f) The Chief of Police may issue guidelines approved by resolution of Council defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether or not to grant a special variance.

(g)The decision of the Chief of Police may be appealed by the person who is denied the special variance or by any person who claims to be adversely affected by the allowance of the special variance. Such appeal shall be made to the Zoning Board of Appeals and review by the Board shall be de novo.

## ABATEMENT ORDERS.

In lieu of issuing a notice of violation as provided for a law enforcement officer may issue an order requiring the immediate abatement of any source of sound alleged be in violation of this chapter. Except where a person is acting in good faith to comply with an abatement order issued, a violation of any provision of this chapter shall be cause for a notice of violation to be issued by a law enforcement officer.

PASSED THIS 20<sup>TH</sup> DAY OF OCTOBER, 2009

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Chief Fiscal Officer

<b>PREAMBLE .....</b>	<b>0</b>
<b>ARTICLE 1     GENERAL REGULATIONS .....</b>	<b>1</b>
101    TITLE .....	1
102    INTENT.....	1
103    INTERPRETATION.....	1
104    SEPARABILITY .....	2
105    REPEAL OF CONFLICTING ORDINANCES .....	2
<b>ARTICLE 2     DEFINITIONS .....</b>	<b>3</b>
201    CONSTRUCTION OF LANGUAGE .....	3
202    DEFINITIONS .....	3
ACCESSORY USE .....	3
ACCESSORY BUILDING OR STRUCTURE .....	3
ADULT ENTERTAINMENT FACILITIES .....	3
ALLEY.....	4
ALTERATION .....	4
ANIMAL GROOMING .....	4
ANIMAL HOSPITAL OR CLINIC .....	4
ANIMAL LIVESTOCK.....	4
APARTMENT.....	4
APARTMENT HOUSE .....	4
AUTOMOBILE REPAIR, PAINTING, AND BODY SHOPS.....	5
AUTOMOBILE SALES.....	5
AUTOMOBILE SERVICE STATION .....	5
AUTOMOBILE WASHING FACILITIES .....	5
BARS, TAVERNS, AND NIGHTCLUBS .....	5
BASEMENT .....	5
BED AND BREAKFAST INNS .....	5
BEGINNING OF CONSTRUCTION .....	5
BILLBOARD .....	6
BLOCK.....	6
BOARD OF ZONING APPEALS (BZA).....	6
BOARDING OR LODGING HOUSES .....	6
BUILDING .....	6
BUILDING HEIGHT .....	6
BUILDING LINE .....	6
BUILDING LOT .....	6
BUILDING; PRINCIPAL.....	6
BUILDING AND RELATED TRADES .....	7
BUILDING AND ZONING PERMIT.....	7
BUILDING SERVICES AND SUPPLIES .....	7
BUSINESS, PROFESSIONAL, AND ADMINISTRATIVE OFFICES .....	7
CAMPING AND RECREATIONAL EQUIPMENT.....	7
CAR WASH.....	7
CARRY-OUT .....	7
CELLAR .....	8
CEMETERY.....	8
CHANNEL.....	8

CLINIC.....	8
CLUB.....	8
COMMERCIAL ENTERTAINMENT FACILITIES .....	8
COMMERCIAL RECREATION FACILITIES .....	8
COMMERCIAL VEHICLES .....	8
COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITY .....	8
COMPREHENSIVE LAND USE PLAN .....	9
CONDITIONAL USE .....	9
CONDOMINIUM .....	9
CONSTRUCTION TRADES AND CONTRACTOR OFFICES AND SHOPS .....	9
CONVENIENCE STORE .....	9
CORNER LOT.....	9
COVERAGE .....	9
DAY CARE CENTER; COMMERCIAL OR PROFESSIONAL .....	9
DAYS.....	9
DECKS.....	10
DENSITY.....	10
DEVELOPMENT STANDARDS .....	10
DISTRICT .....	10
DRIVE-IN COMMERCIAL USES .....	10
DWELLING UNIT .....	10
DWELLING; MULTI-FAMILY .....	10
DWELLING, REAR .....	10
DWELLING; SINGLE-FAMILY .....	10
DWELLING; TWO-FAMILY.....	11
EASEMENT .....	11
EDUCATIONAL INSTITUTIONS, ELEMENTARY, JUNIOR HIGH, AND HIGH SCHOOLS.....	11
ELDERLY HOUSING FACILITIES.....	11
ERECTED.....	11
ESSENTIAL SERVICES .....	11
FACTORY-BUILT HOUSING .....	11
FARM.....	11
FAMILY .....	12
FEEDLOT.....	12
FENCE.....	12
FILLING STATION .....	12
FINANCIAL ESTABLISHMENTS .....	12
FLOOD, REGIONAL .....	12
FLOODPLAIN .....	12
FLOODWAY .....	12
FLOODWAY FRINGE .....	12
FLOOR AREA OF A NON-RESIDENTIAL BUILDING .....	12
FLOOR AREA OF A RESIDENTIAL BUILDING.....	12
FRATERNAL AND SOCIAL ASSOCIATION FACILITY .....	13
FRONT LOT LINE.....	13
FRONT YARD .....	13
FUNERAL HOME .....	13
GARAGE; PRIVATE.....	13
GARAGE; PUBLIC.....	13

GARDEN CENTER .....	13
GAS STATION.....	13
GENERAL MERCHANDISE STORES .....	13
GRAIN ELEVATORS AND FEED MILLS .....	13
GREENBELT .....	13
GREENHOUSE-HOTHOUSE-NURSERY .....	14
GROUP HOME .....	14
HALFWAY HOUSE .....	14
HEAVY EQUIPMENT RENTAL, SALES, SERVICE, AND STORAGE .....	14
HOME OCCUPATIONS .....	14
HOTEL.....	14
HOUSEHOLD ITEMS REPAIR SHOP .....	14
INDUSTRIAL; ENCLOSED .....	14
INDUSTRIAL; OPEN.....	14
INTERIOR LOT LINE.....	15
JUNK.....	15
JUNK MOTOR VEHICLES .....	15
JUNK YARD OR SALVAGE YARD .....	15
KENNELS.....	15
LANDSCAPING .....	15
LAND USE PLAN.....	15
LIBRARIES .....	15
LIVABILITY SPACE .....	15
LOADING SPACE .....	16
LOT .....	16
LOT COVERAGE .....	16
LOT FRONTAGE .....	16
LOT LINE .....	16
LOT MEASUREMENTS .....	16
LOT; MINIMUM AREA OF .....	16
LOT OF RECORD .....	17
LOT TYPES .....	17
LUMBER YARDS AND BUILDING MATERIALS SALE AND STORAGE.....	17
MANUFACTURED HOME .....	17
MANUFACTURED HOME COURT.....	17
MANUFACTURING.....	17
MEDICAL OFFICES AND CLINICS.....	17
MEMBERSHIP SPORTS AND RECREATION USES.....	17
MINERAL EXTRACTION, STORAGE, AND PROCESSING .....	17
MINI-WAREHOUSE.....	17
MIXED USE .....	18
MOBILE HOME COURT .....	18
MOBILE HOME .....	18
MOTEL.....	18
MULTI-FAMILY DWELLING .....	18
NEIGHBORHOOD BUSINESSES .....	18
NIGHTCLUB .....	18
NONCONFORMITIES .....	18
NURSERIES AND GARDEN SUPPLIES STORES .....	18

NURSERY .....	18
NURSING HOME, REST HOME, OR CONVALESCENT HOME .....	18
OCCUPIED .....	18
OFF-STREET PARKING.....	19
OPEN SPACE .....	19
OPEN STORAGE .....	19
PARKING LOT .....	19
PARKING SPACE; OFF-STREET .....	19
PATIOS.....	19
PERMITTED USE .....	19
PERSON .....	19
PERSONAL SERVICES .....	19
PET SHOPS.....	19
PLACES OF WORSHIP .....	19
PLANNED UNIT DEVELOPMENT (PUD).....	20
PLANNING COMMISSION .....	20
POOL; SWIMMING .....	20
PORCHES .....	20
PREEXISTING USE .....	20
PRINCIPAL USE .....	20
PRIVATE BUSINESS OR FAMILY GATHERING FACILITY .....	20
PRIVATE CLUBS .....	20
PRIVATE LANDING STRIPS AND HELIPORTS .....	20
PRIVATE SCHOOLS.....	21
PROFESSIONAL OFFICES.....	21
PUBLIC OFFICES AND PUBLIC BUILDINGS .....	21
PUBLIC RECREATION FACILITIES.....	21
PUBLIC SERVICE FACILITY .....	21
PUBLIC SERVICE YARDS AND GARAGE .....	21
PUBLIC UTILITIES .....	21
PUBLIC WAY .....	21
REAR LOT LINE.....	21
REAR YARD .....	21
RECONSTRUCTED .....	21
RECREATION SPACE .....	22
RECREATION VEHICLE .....	22
REGIONAL PLANNING COMMISSION .....	22
RELIGIOUS PLACES OF WORSHIP .....	22
RESTAURANT; FAST FOOD .....	22
RESTAURANT; STANDARD.....	22
RETAIL BUSINESS.....	22
RIGHT-OF-WAY.....	22
ROADSIDE STAND.....	22
ROOM, HABITABLE.....	22
ROOMING HOUSE .....	23
SATELLITE SIGNAL RECEIVER .....	23
SCREENING.....	23
SEAT .....	23
SELF-SERVICE STORAGE FACILITY.....	23

SERVICE CLUBS.....	23
SERVICE GARAGE .....	23
SERVICE STATION .....	23
SETBACK LINE .....	24
SHOOTING SPORTS .....	24
SEWERS, CENTRAL OR GROUP .....	24
SIGN .....	24
SINGLE-FAMILY DWELLING .....	24
SPA/HOT TUB .....	24
STABLE .....	24
STORY.....	24
STREET.....	24
STRUCTURAL ALTERATION.....	24
STRUCTURE .....	25
SURVEY.....	25
SWIMMING POOL .....	25
TAVERN .....	25
TEMPORARY USE OF BUILDING .....	25
THIS CHAPTER .....	25
THOROUGHFARE.....	25
THROUGH LOT .....	25
TOURIST HOME.....	25
TOURIST COURT .....	26
TRAILER .....	26
TRAILER PARK.....	26
TRANSPORTATION TERMINALS.....	26
TRANSPORT TRUCKING TERMINAL.....	26
TRUCK TERMINAL.....	26
TWO-FAMILY DWELLING.....	26
USE.....	26
UTILITY SERVICE COMPANIES .....	26
VARIANCE.....	26
VEHICLE .....	26
VEHICLE SALES, RENTAL, AND SERVICE.....	26
VILLAGE ADMINISTRATOR – if applicable .....	27
VISION CLEARANCE ON CORNER LOTS .....	27
WAREHOUSE .....	27
WHOLESALE BUSINESS.....	27
YARD .....	27
ZONE .....	27
ZONING BOARD OF APPEALS .....	27
ZONING CERTIFICATE .....	28
ZONING COMMISSION.....	28
ZONING ENFORCEMENT OFFICER.....	28
ZONING INSPECTOR .....	28
ZONING MAP .....	28
ZONING PERMIT.....	28
203 ILLUSTRATIONS/EXHIBITS.....	29

<b>ARTICLE 3</b>	<b>ESTABLISHING DISTRICTS AND ZONING MAP</b>	<b>39</b>
301	INTENT	39
302	ESTABLISHMENT OF DISTRICTS	39
303	ZONING DISTRICT MAP	39
304	RULES FOR MAP INTERPRETATION	39
305	INTERPRETATION OF DISTRICT BOUNDARIES	40
306	ZONING UPON ANNEXATION	41
<b>ARTICLE 4</b>	<b>DISTRICT REGULATIONS</b>	<b>42</b>
401	COMPLIANCE WITH REGULATIONS	42
402	SUMMARY OF ZONING DISTRICT REQUIREMENTS	43
403	R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT	44
	Principal Permitted Uses	44
	Conditional Uses	44
	Prohibited Uses	44
	Height and Area Regulations	44
	Cross References	45
404	R-2 TWO-FAMILY RESIDENTIAL DISTRICT	46
	Principal Permitted Uses	46
	Conditional Uses	46
	Prohibited Uses	46
	Height and Area Regulations	46
	Cross References	47
405	R-3 MULTI-FAMILY RESIDENTIAL DISTRICT	48
	Principal Permitted Uses	48
	Conditional Uses	48
	Prohibited Uses	48
	Height and Area Regulations	48
	Cross References	49
406	NB- NEIGHBORHOOD BUSINESS DISTRICT	50
	Principal Permitted Uses	50
	Uses Permitted as Special Exceptions	50
407	CB- CENTRAL BUSINESS DISTRICT	51
	Principal Permitted Uses	51
	Uses Permitted as Special Exceptions	51
408	I1: I/NB- INDUSTRIAL/NEIGHBORHOOD BUSINESS DISTRICT	52
	Principal Permitted Uses	52
	Uses Permitted as Special Exceptions	53
	Prohibited Uses	53
409	I2- INDUSTRIAL DISTRICT	54
	Principal Permitted Uses	54
	Prohibited Uses	54
410	HTO: HIGH-TECH OVERLAY DISTRICT	56
	Permitted Use	56
	Data Center	56
	HTO District Design and Development Standards	56
411	ZONING DISTRICT PERMITTED USE CHARTS	58
412	HEIGHT LIMITS	61



<b>ARTICLE 5</b>	<b>SUPPLEMENTAL DISTRICT REGULATIONS</b>	<b>62</b>
501	INTENT	62
502	ACCESSORY USES	62
503	GARAGE SALE (INCLUDING A PATIO, BASEMENT, YARD OR BLOCK SALE)	64
504	RADIO AND TELEVISION ANTENNA REGULATIONS	65
505	BUFFER AND TRANSITION BETWEEN RESIDENTIAL/COMMERCIAL AND RESIDENTIAL/INDUSTRIAL ZONED PROPERTIES	66
506	PRINCIPAL BUILDING PER LOT	67
507	PARKING AND STORAGE OF VEHICLES AND TRAILERS	67
508	PARKING AND STORAGE OF VEHICLES, RECREATIONAL VEHICLES, WATERCRAFT, DIRT BIKES, MOTORIZED SPORT VEHICLES, TRAILERS, UTILITY TRAILERS, COMMERCIAL VEHICLES, ETC.	67
509	REQUIRED REFUSE COLLECTION AREAS	68
510	FENCES	68
511	VISIBILITY AT INTERSECTIONS	69
512	REDUCTION OF AREA OR SPACE	69
513	TEMPORARY USES	69
514	SWIMMING POOLS/PONDS	70
515	HOME OCCUPATIONS	71
516	NUISANCE PERFORMANCE STANDARDS	72
517	ENVIRONMENTAL PERFORMANCE STANDARDS	73
518	RESIDENTIAL DESIGN AND APPEARANCE STANDARDS	74
519	ANIMALS	74
520	ADULT ENTERTAINMENT FACILITIES	74
521	AUTOMOBILE WASHING FACILITIES	78
522	JUNK	79
523	BILLBOARDS	79
524	LANDFILLS	80
525	TRANSFER STATIONS	82
526	COMPOSTING	84
527	MINERAL AND SOIL EXTRACTION	85
528	PONDS	88
529	FLOOD PLAIN CONTROLS	89
530	EROSION CONTROL REQUIREMENTS	90
531	PRIVATE BUSINESS OR FAMILY GATHERING FACILITY	90
532	SMALL WIND ENERGY PROJECT REGULATION	90
533	OUTDOOR WOODBURNING FURNACES	95
534	MANUFACTURED HOMES & MOBILE HOMES ON INDIVIDUAL PARCELS (LOTS)	97
535	RECREATIONAL VEHICLES, WATERCRAFT, DIRT BIKES, MOTORIZED SPORT VEHICLES, AND UTILITY TRAILERS	97
536	BED AND BREAKFAST INNS	98
537	WIRELESS TELECOMMUNICATIONS FACILITIES	98
<b>ARTICLE 6</b>	<b>CONDITIONAL USES; SUBSTANTIALLY SIMILAR USES</b>	<b>108</b>
601	INTENT	108
602	CONTENTS OF CONDITIONAL USE PERMIT APPLICATION	108
603	GENERAL STANDARDS FOR ALL CONDITIONAL USES	108
604	ACTION BY THE BOARD OF ZONING APPEALS	109
605	ADDITIONAL CRITERIA	109
606	NOTICE TO PARTIES OF INTEREST	110
607	PROCEDURE AND REQUIREMENTS TO DETERMINE THAT A USE IS SUBSTANTIALLY SIMILAR	110

<b>ARTICLE 7</b>	<b>NONCONFORMITIES .....</b>	<b>112</b>
701	INTENT.....	112
702	USES UNDER CONDITIONAL USE PROVISIONS, NOT NONCONFORMING USES.....	112
703	INCOMPATIBILITY OF NONCONFORMITIES.....	112
704	AVOIDANCE OF UNDUE HARDSHIP.....	112
705	SUBSTITUTION OF NONCONFORMING USES.....	112
706	SINGLE NONCONFORMING LOTS OF RECORD .....	113
707	NONCONFORMING LOTS OF RECORD IN COMBINATION .....	113
708	NONCONFORMING USES OF LAND.....	114
709	NONCONFORMING STRUCTURES .....	114
710	NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION.....	115
711	TERMINATION OF NONCONFORMITIES.....	115
712	MOVING OF NONCONFORMITIES.....	116
713	REPAIRS AND MAINTENANCE.....	116
714	CHANGE OF NONCONFORMITIES .....	117
715	NONCONFORMING ACCESSORY USE.....	117
<b>ARTICLE 8</b>	<b>PLANNED UNIT DEVELOPEMEMTS (PUD).....</b>	<b>118</b>
801	INTENT.....	118
802	REQUIREMENTS .....	118
803	PERMITTED USES .....	118
804	PROCEDURE .....	118
805	PRELIMINARY DEVELOPMENT PLAN APPLICATION REQUIREMENTS.....	120
806	NOTICE OF PUBLIC HEARING IN NEWSPAPER .....	121
807	NOTICE TO PARTIES IN INTEREST .....	121
808	FINAL DEVELOPMENT PLAN APPLICATION REQUIREMENTS .....	122
809	SPECIAL PROVISIONS.....	123
810	ADDITIONAL REQUIREMENTS.....	125
811	RESIDENTIAL AND BUSINESS/COMMERCIAL PLANNED UNIT DEVELOPMENT MINIMUM DESIGN STANDARDS.....	125
812	MX-PUD MIXED USE PLANNED UNIT DEVELOPMENT DISTRICT .....	127
813	INDUSTRIAL PLANNED UNIT DEVELOPMENT MINIMUM DESIGN STANDARDS .....	130
814	EXPIRATION AND EXTENSION OF APPROVAL PERIOD.....	131
<b>ARTICLE 9</b>	<b>OFF STREET PARKING AND LOADING FACILITIES .....</b>	<b>132</b>
901	INTENT.....	132
902	GENERAL PARKING REQUIREMENTS .....	132
903	OFF-STREET PARKING DESIGN STANDARDS .....	132
	Off-Street Parking Minimum Dimensional Table .....	134
904	DETERMINATION OF REQUIRED SPACES .....	134
905	JOINT OR COLLECTIVE PARKING FACILITIES .....	134
906	OFF-STREET STORAGE AREAS FOR DRIVE-IN SERVICES.....	135
907	PARKING OF DISABLED VEHICLES.....	135
908	PARKING SPACE REQUIREMENTS .....	135
909	HANDICAPPED PARKING .....	138
910	OFF-STREET LOADING SPACE REQUIREMENTS.....	139
911	OFF-STREET LOADING DESIGN STANDARDS.....	139
<b>ARTICLE 10</b>	<b>SIGNAGE.....</b>	<b>140</b>
1001	INTENT .....	140

1002	GOVERNMENTAL SIGNS EXCLUDED.....	140
1003	GENERAL REQUIREMENTS FOR ALL SIGNS AND DISTRICTS .....	140
1004	PERMIT REQUIRED .....	141
1005	SIGNS PERMITTED IN ALL DISTRICTS NOT REQUIRING A PERMIT .....	141
1006	TEMPORARY SIGNS.....	142
1007	POLITICAL SIGNS.....	142
1008	MEASUREMENT OF SIGN AREA.....	142
1009	BUSINESS SIGNS .....	142
1010	ATTACHED SIGNS PERTAINING TO NONCONFORMING USES.....	146
1011	SIGN SETBACK REQUIREMENTS.....	146
1012	MAINTENANCE.....	146
1013	NONCONFORMING SIGNS AND STRUCTURES .....	146
1014	LOSS OF LEGAL NONCONFORMING STATUS .....	146
1015	VIOLATIONS.....	147
1016	ABANDONED SIGNS.....	147
<b>ARTICLE 11</b>	<b>AMENDMENTS.....</b>	<b>148</b>
1101	INTENT .....	148
1102	INITIATION OF ZONING AMENDMENTS .....	148
1103	TEXT AMENDMENTS AND CHANGING OF ZONING DISTRICT .....	148
1104	CONTENTS OF APPLICATION FOR ZONING MAP AMENDMENT.....	148
1105	CONTENTS OF APPLICATION FOR ZONING TEXT AMENDMENT .....	149
1106	RECOMMENDATION BY PLANNING COMMISSION .....	149
1107	PUBLIC HEARING BY VILLAGE COUNCIL.....	149
1108	NOTICE OF PUBLIC HEARING IN NEWSPAPER .....	149
1109	NOTICE TO PROPERTY OWNERS BY VILLAGE COUNCIL .....	150
1110	ACTION BY VILLAGE COUNCIL .....	150
<b>ARTICLE 12</b>	<b>APPEALS AND VARIANCES .....</b>	<b>151</b>
1201	INTENT .....	151
1202	ADMINISTRATIVE APPEALS.....	151
1203	VARIANCES.....	151
1204	CONDITIONS FOR VARIANCE.....	152
1205	APPLICATION AND STANDARDS FOR VARIANCES .....	152
1206	ADDITIONAL CONDITIONS AND SAFEGUARDS.....	153
1207	PUBLIC HEARING BY THE BOARD OF ZONING APPEALS.....	153
1208	NOTICE OF PUBLIC HEARING IN NEWSPAPER .....	153
1209	NOTICE TO PARTIES IN INTEREST .....	153
1210	ACTION BY BOARD OF ZONING APPEALS.....	154
1211	TERM OF VARIANCE .....	154
1212	AUTHORIZED VARIANCES.....	154
<b>ARTICLE 13</b>	<b>ADMINISTRATION.....</b>	<b>155</b>
1301	INTENT .....	155
1302	GENERAL PROVISIONS.....	155
1303	ZONING INSPECTOR .....	155
1304	RESPONSIBILITIES OF ZONING INSPECTOR.....	155
1305	DUTIES OF THE PLANNING COMMISSION .....	156
1306	DUTIES OF THE BOARD OF ZONING APPEALS .....	156

1307	VILLAGE COUNCIL .....	157
1308	SCHEDULE OF FEES .....	157
<b>ARTICLE 14</b>	<b>ZONING PERMIT REQUIREMENTS AND ENFORCEMENT .....</b>	<b>158</b>
1401	INTENT .....	158
1402	RECOMMENDED CONTENTS OF APPLICATION FOR ZONING PERMITS .....	158
1403	SITE PLAN REQUIRED CONTENTS.....	158
1404	APPROVAL OF ZONING PERMIT.....	160
1405	FAILURE TO OBTAIN A ZONING PERMIT .....	160
1406	CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, AND PERMIT .....	160
1407	ENTRY AND INSPECTION OF PROPERTY .....	160
1408	STOP WORK ORDER .....	160
1409	ZONING PERMIT REVOCATION.....	160
1410	COMPLAINTS REGARDING VIOLATIONS.....	160
1411	NOTICE OF VIOLATION .....	161
1412	PENALTIES AND FINES .....	161
1413	ADDITIONAL REMEDIES .....	161
<b>APPENDIX A.....</b>	<b>.....</b>	<b>160</b>