

CHAPTER 1101
Title; Purpose; Application

1101.01 Title.

1101.02 Purpose.

1101.03 Application.

1101.01 TITLE.

This Zoning Ordinance, comprising all of these requirements, regulations, procedures, and map, shall be known, cited, and referred to as the Village Zoning Ordinance, which shall be abbreviated herein as “this Ordinance”. This Ordinance shall replace, in its entirety, Ordinance ~~No. 399-1991~~ 2005-0711-03, As Amended (Zoning Ordinance).

1101.02 PURPOSE.

The Village of Peninsula is a small community with a rich history of agricultural, residential, commercial, industrial, institutional, and tourism related uses. It is essential that all use areas be given adequate protection, that agricultural uses may continue to coexist with residential uses, and that residential areas may develop in an orderly manner. It is essential that commercial uses have an equal degree of protection to promote and preserve the Main Street and nearby shopping areas and provide adequate off-street parking facilities which will tend to keep customers coming to said shopping areas. It is also recognized that the purpose of industry and commerce is to provide the means for a decent and respectable life for the citizens of a community. With regard to the interests of public health, safety, convenience, prosperity, and general welfare, it is essential that residential areas be suitably located in relationship to industry and commerce, and that they be protected against the intrusions which will interfere with decent living conditions. It is essential that all of the uses of land and buildings within the Village be so related as to provide for economy in government in such a manner that they may mutually support each other and each derive the greatest benefit from industry, commercial, and residential areas.

1101.03 APPLICATION.

The provisions of this Ordinance shall be considered as the minimum requirements necessary for the public health, safety, convenience, comfort, prosperity, and general welfare. Whenever the requirements of this Ordinance are at variance with a statute or lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the more restrictive requirement shall govern.

**CHAPTER 1105
District Regulations**

- 1105.01** Zoning districts.
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- 1105.03** R-1, Rural Residential District.
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- 1105.15** District boundaries.
- 1105.16** Street, alley and railroad rights-of-way.
- 1105.17** Annexation.
- 1105.18** Vacated streets.

1105.01 ZONING DISTRICTS.

For the purpose of this Ordinance, the Village is hereby divided into districts and overlays to be known as the following:

Symbol Name

- R-1 Rural Residential District
- R-2 “Small Town” Residential District
- C Commercial District
- MU Mixed Use District
- PI Public/Institutional District
- CR Conservation/Recreation District
- CRO Conservation/Recreation Overlay
- HPO Historic Preservation Overlay

1105.02 ZONING MAP.

The Village is hereby divided into districts, with the district areas and boundaries as shown on the Official Zoning Map, along with all proper notations, references and explanatory matter. The Official Zoning Map shall be adopted by reference and declared to be a part of this Ordinance. This Map shall be identified by the signature of the ~~Clerk-Treasurer~~**Fiscal Officer**, and bearing the seal of the Village under the following words: “This is to certify that this is the Official Zoning Map of the Village of Peninsula effective as of ”_____. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Map promptly after the amendment has been approved by the Council. No changes of any nature shall be made on the Official Zoning Map, except in conformity with the amendment procedures set forth in this Ordinance, and in conformity with the procedures set forth in the Revised Code for adoption of a

new Official Zoning Map. The Official Zoning Map shall be kept in the office of the ~~Clerk-Treasurer~~Fiscal Officer, and shall be the final authority as to the current zoning status of land and water areas and structures in the Village.

1105.03 R-1, RURAL RESIDENTIAL DISTRICT.

The purpose of the R-1, Rural Residential District is to provide a range of choices of living environments, encouraging the development and maintenance of suitable neighborhoods for families and children, prohibiting uses of land that would adversely impact residential neighborhoods, and discouraging uses that would generate traffic on local streets in excess of normal traffic generated by the neighborhood, all developed in a manner consistent with the Village’s Long Range Plan. The intent of the district is to provide for an environment of predominantly single-family dwellings.

1105.04 R-2, “SMALL TOWN” RESIDENTIAL DISTRICT.

The purpose of the R-2, “Small Town” Residential District is to permit primarily various types of low and moderate density single-family detached housing on individual lots, as well as two-family dwellings, all developed in a manner consistent with the Village’s Long Range Plan. It is intended that various sizes of residential accommodations, for ownership and rental, shall be provided at locations to meet the needs of different age and family groups in the community. Uses in this district shall be subject to appropriate design, density, and development standards that are intended to prevent congestion on public streets and reduce hazards to life and property.

1105.05 C, COMMERCIAL DISTRICT.

The purpose of the C, Commercial District is to promote the following objectives in the downtown area of the Village:

- (a) To encourage a mix of commercial, office, and residential uses, developed in a manner consistent with the Village’s Long Range Plan;
- (b) To permit multi-story buildings and structures with reduced setbacks from the street that preserve and promote ground-floor retail uses with office and residential uses above along with shared accessory parking both on-street and to the rear of the buildings and structures;
- (c) To enhance pedestrian activity; and
- (d) To create harmonious transitions from the commercial areas to the residential areas.

1105.06 MU, MIXED USE DISTRICT.

The purpose of the MU, Mixed Use District is to support economic development and redevelopment that is an asset to the community, neighbors, and business owners; to promote and maintain desirable development activities in harmony with the surrounding area; to preserve natural features and historic resources; to maintain and enhance surface and ground water quality; to promote architecturally attractive buildings and structures; and advance the quality of life of the community, all developed in a manner consistent with the Village’s Long Range Plan. This district is established to provide an environment conducive to existing residential and nonresidential uses, as well as any tourist-related uses that may be proposed in the Village in the future. The district is further designed to accommodate a mix of residential, commercial, and existing industrial uses that serve the needs of residents, businesses and tourists. The nature, scale and function of such uses will be limited and regulated to ensure that they pose no

significant or unusual risk to the public health, safety, and general welfare; generate a minimum of noise, heat, glare, odor, dust, vibration, or other nuisances; do not emit harmful radiation or pollution to the air, water or ground; and create a minimum of traffic congestion, or any other safety hazards.

1105.07 PI, PUBLIC/INSTITUTIONAL DISTRICT.

The purpose of the PI, Public/Institutional District is to recognize the location of existing public and quasi-public institutions owned by and/or located within the Village, including but not limited to the Village Hall, Township Hall, School, Library, Post Office, Cemetery, and local churches, all developed in a manner consistent with the Village’s Long Range Plan. This district is established to accommodate these existing institutions and encourage their future viability and continued location in the Village.

1105.08 CR, CONSERVATION/RECREATION.

The purpose of the CR, Conservation/Recreation District is to protect and preserve open space land as a limited and valuable resource; to permit and facilitate the reasonable use of open space land, while simultaneously preserving and protecting the inherent characteristics of the open space to ensure the continued availability for agricultural operations, scenic, recreational, conservation, and educational purposes; for the containment of urban sprawl and the structuring of urban development; and for the retention of land in its natural or near-natural state; and to implement recommendations of the Village’s Long Range Plan.

1105.09 CRO, CONSERVATION/RECREATION OVERLAY.

The purpose of the CRO, Conservation/Recreation Overlay is to identify those areas within the Village that are recommended for eventual CR, Conservation/Recreation zoning, consistent with the Village’s Long-Range Plan. This Overlay designation is intended to permit development, should it occur, while insuring consistency with the policies of the Long-Range plan by conserving open space, maintaining access for the public to the natural resources and preserving the small-town character of the Village.

1105.10 HPO, HISTORIC PRESERVATION OVERLAY (RESERVED)

The purpose of the HPO, Historic Preservation Overlay is to promote the economic and general welfare of the people of the Village of Peninsula, of the public generally and ensure the harmonious, orderly, and efficient growth and development of the municipality; it is deemed essential to preserve the qualities relating to the history of the Village, present a harmonious outward appearance of structures to maintain property values and attract tourists and residents alike. Qualities related to the above-stated purpose include: the continued existence and preservation of historic areas and buildings; the continued construction of buildings in historic styles; and a general harmony as to style, form, proportion, texture, and material between buildings of historic design and those of more modern design. Such purpose is advanced through the preservation and protection of the old historic or architecturally worthy structures and quaint neighborhoods that impart a distinct aspect to the Village and serve as visible reminders of the historical and cultural heritage of the Village, the State, and the nation.

1105.11 (RESERVED).

1105.12 PERMITTED USES AND CONDITIONAL USES.

In all districts, no structure or land shall be used or occupied, except in conformance with this Ordinance. Conditional uses may only be permitted in accordance with this Ordinance, subject to the procedures outlined in Section 1149.07.

1105.13 PROHIBITED USES.

Uses that are not specifically listed as a permitted or conditional use permitted by this Ordinance in a zoning district.

1105.14 DESIGN AND DEVELOPMENT REQUIREMENTS.

All permitted and conditional uses shall comply with any applicable requirements of this Ordinance and all other applicable Village requirements. No structure shall be erected, reconstructed, altered or enlarged, nor shall permits or Certificates of Completion be issued, except in conformance with this Ordinance and all other applicable Village requirements.

1105.15 DISTRICT BOUNDARIES.

The boundaries of zoning districts, as shown on the map accompanying and made a part of this Ordinance, unless otherwise shown, are lot or tract lines or the center lines of streets, roads or alleys, or the extension thereof, railroad right-of-way lines and the corporate limits of the Village.

1105.16 STREET, ALLEY, AND RAILROAD RIGHTS-OF-WAY.

All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

1105.17 ANNEXATION.

All property annexed to the Village shall be regulated by, and the Village shall enforce, whatever zoning regulations governed the property prior to annexation, until such time as the Council shall adopt an ordinance to designate such property in an appropriate zoning district pursuant to this Ordinance.

1105.18 VACATED STREETS.

Whenever any street or public way is vacated by official action of the Council, the zoning districts adjoining each side of the street or public way shall automatically extend to the center of such vacation, unless said street was obviously originally taken entirely out of one parcel of land, in which case the entire public way shall revert to the original property, and all area included in the vacation shall thereafter be subject to all regulations of the extended districts.

CHAPTER 1109
Land Use Tables

1109.01 Key to designations in Land Use Tables.

1109.02 Table of permitted uses by district.

1109.03 Land use tables.

1109.01 KEY TO DESIGNATIONS IN LAND USE TABLES.

The following symbols are used to designate uses permitted in various districts:

<u>Symbol</u>	<u>Meaning</u>
P	Permitted Use
C	Conditional Use
A	Accessory Use
X	Prohibited Use.

1109.02 TABLE OF PERMITTED USES BY DISTRICT.

The uses of land in the following table have been organized, for ease of use and convenience, into use groups based upon certain characteristics that the grouped uses may share. These use groups are described below:

(a) Animal and Agricultural Uses. These uses primarily involve uses deriving from or related to agriculture, as defined in the Ohio Revised Code.

(b) Residential Uses. These uses primarily involve housing of various types and densities, and associated uses typically found in a residential neighborhood.

(c) Office and Service Uses. These are generally various types of offices as well as service and support uses that may or may not be retail commercial in nature.

(d) Community Uses. These uses are generally publicly-owned or operated uses, or uses of a not-for-profit nature, that primarily involve benefits or services generally provided to a significant portion of the population, or are uses that serve as focal or gathering points for members of the community.

(e) Commercial Uses. These are generally privately-owned or operated uses, or uses of a for-profit nature, that include personal service establishments, financial, executive, administrative, medical and professional offices, retail sales, food service, entertainment, repair services, workshops and studios, and similar associated uses.

(f) Industrial, Research and Laboratory Uses. These are uses that are generally of a light manufacturing, research, warehousing or wholesaling character, or that involve compounding, processing, packaging, assembly, storage, or treatment of products or materials.

(g) Temporary and Special Event Uses. These are uses that are generally of a temporary nature, including but not limited to uses sponsored by the Village or other public or private organizations, and which may or may not involve the construction or occupation of new or existing buildings.

(h) Accessory Use Classifications. These uses are permitted as an accessory to any principal permitted use or conditional uses.

1109.03 LAND USE TABLES.

	SYMBOL	KEY							
	P	Permitted Uses	RURAL RESIDENTIAL	SMALL TOWN RESIDENTIAL	COMMERCIAL	MIXED USE	PUBLIC INSTITUTIONAL	CONSERVATION/RECREATION	
	C	Conditional Uses							
	A	Accessory Uses							
USES		Prohibited Use	R-1	R-2	C	MU	PI	CR	STANDARDS FOR LAND USES
ANIMAL AND AGRICULTURAL USES									
Garden Centers and Feed Stores						P		P	
Individual Produce Stands and Farm Markets			C					P	Sec. <u>1141.01</u>
Farming			C	C				P	Sec. <u>1141.39</u>
Greenhouses and Nurseries (Primary Use)			C					C	Sec <u>1141.09</u>
Veterinary Clinics						C		C	Sec. <u>1141.02</u>
Farmers' Markets			C			C		C	Sec. <u>1141.03</u>
RESIDENTIAL USES									
Single Family Dwellings, Detached			P	P	P	P	P		
Adult Family Homes (ORC Sec. 3722.01) Residential Care Facility With 1 to 5 Persons (5119.34)			P	P	P	P	P		
Foster Homes (ORC Sec. 5103.02)			P	P	P	P	P		
Family Day-Care Homes, Type B (ORC Sec. 5104.01)			P	P	P	P	P		
Family Day-Care Homes Type A (ORC Sec. 5104.01)			C	C					Sec. <u>1141.04</u>
Farming for Personal Use			P	P	P	P	P	P	Sec. <u>1141.39</u>
Bed and Breakfast Inns			C	C	P	P			Sec. <u>1141.05</u>
Adult Group Homes (ORC Sec. 3722.01) Residential Care Facility 6 to 16 persons						PC			Sec <u>1141.13</u>
Two-Family Dwelling				C		C			Sec. <u>1141.06</u>
Three-Family Dwelling Three Family Dwelling						EC			Sec. <u>1141.06</u> Sec <u>1141.06</u>
Multiple-Family Dwellings and Developments						C			Sec. <u>1141.07</u>
Townhouses and Stacked Flats						E			Sec. <u>1141.08</u>
	SYMBOL	KEY							
	P	Permitted Uses	RURAL RESIDENTIAL	SMALL TOWN RESIDENTIAL	COMMERCIAL	MIXED USE	PUBLIC INSTITUTIONAL	CONSERVATION/RECREATION	
	C	Conditional Uses							
	A	Accessory Uses							
USES		Prohibited Use	R-1	R-2	C	MU	PI	CR	STANDARDS FOR LAND USES

OFFICE AND SERVICE USES										
Limited Business, Institutional, and Historical Uses		C	C							<u>Sec. 1141.09</u>
Catering Facilities				A	P					<u>Sec. 1141.10</u>
Banks and Financial Institutions				P	P					
Barber Shops, Beauty Salons and Nail Care				P	P					
Medical, Osteopathic, Chiropractic Doctor and, Dental and other health practitioners' offices and clinics. Offices, Medical Clinics, Urgent Care or Rehabilitation Centers				P	P					
Massage Therapists				P	P					<u>Sec. 1141.11</u>
Offices for Professional, Executive, or Administrative Uses, <u>such as</u> Attorneys, Accountants, Realtors, Architects, Artists, Insurance and Similar Occupations				P	P					
Video Rental Establishments				P	P					
Workshops, Showrooms, Studios or Offices of Photographers , Skilled Trades, <u>such as Photographers</u> , Decorators, Upholsterers, Tailors, Taxidermists, and Similar Businesses, or for Repair and Service of <u>small appliances and equipment such as</u> Bicycles, Electronics, Small Appliances , Furniture, Shoes and-or Similar Items				P	P					
Funeral Parlors or Mortuaries					C					<u>Sec. 1141.12</u>
Nursing and Convalescent Homes, Assisted Living Facilities, and Senior Housing					C					<u>Sec. 1141.13</u>
	SYMBOL	KEY								
	P	Permitted Uses		RURAL RESIDENTIAL	SMALL TOWN RESIDENTIAL	COMMERCIAL	MIXED USE	PUBLIC INSTITUTIONAL	CONSERVATION/RECREATION	
	C	Conditional Uses								
	A	Accessory Uses								
USES		Prohibited Use		R-1	R-2	C	MU	PI	CR	<u>STANDARDS FOR LAND USES</u>
COMMUNITY USES										
Auditoriums and Performing Arts Theaters				P	P	P				<u>Sec. 1141.14</u>
Churches, Temples and Other Places of Worship				P	P	P				<u>Sec. 1141.14</u>
Child Care or Day Care Centers and Child Caring Institutions				P	P	P				
Health Club or Fitness Center					P	P				
Public Works or Road Maintenance Yards					P	P				
Cemeteries						P				
<u>Educational Institutions, Public or Private, such as Elementary and Secondary schools and Colleges, Universities and Other Institutions of Higher Education</u>							P			

<u>Fire and Police Stations</u>						<u>P</u>			
<u>Government Offices, such as Police and Fire Stations, Post Offices, Public Works or Road Maintenance Yards</u>						P			
Halls for Civic Clubs and Membership Organizations						P			
Libraries, Museums and Fine Art Centers						P			
<u>Post Offices</u>						<u>P</u>			
<u>Schools, Elementary</u>						<u>P</u>			
<u>Schools, Secondary</u>						<u>P</u>			
Recreation Facilities, Indoor (Community/Non-commercial) - (such as tennis/racquet courts, swimming pools, roller/in-line and ice-skating rinks and fitness tracks)						P			Sec. <u>1141.15</u>
Recreation Facilities, Outdoor Passive (Community/non-commercial) - (such as parks, trails, conservation areas, <u>licensed camp grounds</u> and similar facilities)						P	P		Sec. <u>1141.15</u>
Recreation Facilities, Outdoor Active (Community/non-commercial) - (such as playgrounds, athletic fields, or courts, swimming pools, skating rinks, fitness tracks and similar facilities)						P	C		Secs. <u>1141.15</u> , <u>1141.16</u>
Public Utility and Essential Service Structures and Uses Other than Wireless Telecommunications Facilities	<u>C</u>	<u>C</u>	<u>C</u>	C	C	C	C		Sec. <u>1141.17</u>
	SYMBOL								
	P	Permitted Uses	RURAL RESIDENTIAL	SMALL TOWN RESIDENTIAL	COMMERCIAL	MIXED USE	PUBLIC INSTITUTIONAL	CONSERVATION/RECREATION	
	C	Conditional Uses							
	A	Accessory Uses							
USES		Prohibited Use	R-1	R-2	C	MU	PI	CR	<u>STANDARDS FOR LAND USES</u>
<u>COMMERCIAL USES</u>									
<u>Specialty Retail Establishments such as Antique Shops, and Art Galleries, Florists, Gift Shops, Bakeries</u>					P	P			
Auto Parts Stores (without repair services)					P	P			
<u>Bakeries</u>	-	-			<u>P</u>	<u>P</u>	-	-	
<u>Florists, Gift Shops, and Speciality Shops</u>	-	-			<u>P</u>	<u>P</u>			
Hardware and Home Improvement Stores and Building Supply Yards (indoor)					P	P			
Laundromat and Dry Cleaning Customer Pick-up/Drop-Off Only					P	P			

Printing or Copy Centers			P	P			
Eating and drinking places without the sale of alcohol, such as Restaurants, Coffeehouses, Doughnut Shops or Delicatessens			P	P			
Eating and drinking places with the sale of alcohol such as Tavern, Pub, Brewpub, Cocktail Lounge, Night Club or Billiard and Pool Hall			P	P			Sec. <u>1141.18</u>
Tobacconist or Cigar/Cigarette Shop			P	P			Sec. <u>1141.19</u>
Video Rental Establishments			P	P			Sec. <u>1141.20</u>
Retail Stores and Commercial Uses with up to 10,000 square feet of total gross floor area			P	P			
Showrooms or Sales Office (indoor only) for Sales or Rentals of Automobiles, Recreational Vehicles, Boats, Equipment, Machinery or Other Durable Goods				PC			
Arcades and Indoor or Outdoor Amusement Centers, such as Miniature Golf, Golf Driving Ranges, Bowling Alleys, Batting Cages or Similar Facilities				PC			Sec. <u>1141.15</u>
Automobile, Truck and other Motor Vehicle Service facilities including gas stations, minor and major repair Fueling Stations, Gas Stations and Similar Facilities			C	C			Sec. <u>1141.21</u>
Automobile, Truck and other Motor Vehicle Service Centers for minor repair, including but not limited to brakes, tires, shocks and struts, undercoating, mufflers, oil and fluid changes and detailing			C	C	-	-	Sec. <u>1141.21</u>
Automobile, Truck and other Motor Vehicle Repair Stations for major repair, including but not limited to body shops, painting, welding and engine or transmission repair or replacement			C	C	-	-	Sec. <u>1141.21</u>
Outdoor Eating Areas and Sidewalk Cafes			C	C			Sec. <u>1141.22</u>
Recording Studios			C	C			Sec. <u>1141.23</u>
Gunsmiths and Licensed Firearms Dealers				C			Sec. <u>1141.24</u>
Hotels				C			Sec. <u>1141.25</u>
Showroom, Sales Offices and Outdoor Sales or Display Area for Sales or Rentals of Goods, Products, Equipment, Machinery, Automobiles, Recreational Vehicles, Boats, Building Supplies, Hardware or Other Items				C			Sec. <u>1141.26</u>
Retail Stores and Commercial Uses with 10,000 to 40,000 square feet of total gross floor area				C			Sec. <u>1141.27</u>

		SYMBOL	KEY							
	P	Permitted Uses	RURAL RESIDENTIAL	SMALL TOWN RESIDENTIAL	COMMERCIAL	MIXED USE	PUBLIC INSTITUTIONAL	CONSERVATION/RECREATION		
	C	Conditional Uses								
	A	Accessory Uses								
USES		Prohibited Use	R-1	R-2	C	MU	PI	CR	<u>STANDARDS FOR LAND USES</u>	
<u>INDUSTRIAL, RESEARCH AND LABORATORY USES</u>										
		Brewery, Distillery or Winery				C			Sec. <u>1141.28</u>	
		Carpet and Rug Cleaning and Similar Cleaning Businesses				C			Sec. <u>1141.28</u>	
		Dry Cleaner Central Cleaning/Processing Facilities				C			Sec. <u>1141.28</u>	
		Electroplating, Welding and Sheet Metal Shops, Paint Mixing and Spraying, Metal Casting, Smelting, Plating, Fabricating, Buffing, Stamping, Dyeing, Shearing or Punching, and Automatic Screw Machines and Rolling Mills				C			Sec. <u>1141.28</u>	
		Light Industrial Activities such as:								
		Warehousing and Bulk Indoor Storage Facilities				C			Sec. <u>1141.28</u>	
		Assembly of Pre-manufactured Parts for Goods, Products, Equipment, Machinery, Hardware or Similar Items				C			Sec. <u>1141.28</u>	
		Blacksmithing, Furniture or Cabinet Repair or Manufacture, Machine Shops and Welding Shops, Stone Finishing and Carving, Printing, Bookbinding, or Publishing, Woodworking Shops and Similar Uses				C			Sec. <u>1141.28</u>	
		Manufacture of Products from Aluminum, Brass, <u>or</u> Other Metals, Bone, Leather, Paper or Rubber				C			Sec. <u>1141.28</u>	
		Manufacture <u>and assembly of small products such as</u> of Artificial Flowers, Ornaments, Awnings, Tents, Bags, Cleaning or Polishing Preparations, Brooms and Brushes, Buttons and Novelties, Canvas Products, Clothing for Wholesale Trade, Basket Material, Bicycles, Shoes, Caskets, Brick, Clay, Glass, Shale, Tile Terra Cotta Products or Similar Items				C			Sec. <u>1141.28</u>	
		Bottling Works, Feed or Flour Mills, Grain Elevators, Smoking, Curing or Packing Plants and Similar Food Processing Uses				C			Sec. <u>1141.28</u>	
		Research and Development Facilities, Technical Centers and Laboratories				C			Sec. <u>1141.28</u>	

Outdoor Storage of Goods, Products, Equipment, Machinery, Lumber, Landscaping and Building Supplies or Similar Items					C				Sec. <u>1141.29</u>
Recycling Collection Facilities and Composting Centers					C				Sec. <u>1141.30</u>
Self-Storage Warehouses					C				Sec. <u>1141.31</u>
	SYMBOL	KEY							
	P	Permitted Uses	RURAL RESIDENTIAL	SMALL TOWN RESIDENTIAL	COMMERCIAL	MIXED USE	PUBLIC INSTITUTIONAL	CONSERVATION/RECREATION	
	C	Conditional Uses							
	A	Accessory Uses							
USES		Prohibited Use	R-1	R-2	C	MU	PI	CR	<u>STANDARDS FOR LAND USES</u>
<u>OTHER USES</u>									
Accessory Off-Street Parking Lot for Private Passenger Automobiles			A	A	A	A	A	A	
Accessory Structures and Uses Customarily Incidental to any Permitted Use			A	A	A	A	A	A	
Garage Sales, Estate Sales and Private Auctions			P	P	P	P	P		Sec. <u>1141.32</u>
Garage for Commercial Vehicles					P	P	C	C	Sec. <u>1141.33</u>
Temporary Structures and uses, including Construction Buildings			C	C	C	C	C	C	Sec. <u>1141.34</u>
Circuses, Fairs, Revivals, Carnivals and Similar Uses					C	C	C	C	Sec. <u>1141.35</u>
Home Occupation			A	A	A	A	A	A	Sec. <u>1141.36</u>
Swimming Pools			A	A	A	A	A	A	Sec. <u>1141.37</u>
Wireless Telecommunications Facilities						C			Sec. <u>1141.38</u>
Sexually Oriented Businesses						P			Article Chapter <u>1151</u>

1109.04 Historic Preservation Overlay

Property located within the Historic Preservation Overlay District shall conform to the requirements of the underlying zoning district in addition to the requirements identified in Chapter 1115.

CHAPTER 1113
Schedule of Regulations

1113.01 Schedule of Regulations.

1113.01 SCHEDULE OF REGULATIONS.

District/ Overlay	Lot Minimum		Maximum Height of Structures		Minimum Setback Requirements (Per Lot in Feet)				Minimum Floor Area	Maximum Lot Coverage
					Side Yards					
	Area (square feet)	Width (feet)	In Stories	In Feet	Minimum Front Yard	Least One	Total of Two	Rear Yard		
R-1, Rural Residential District	174,240 (4 acres)	300 (b)	2	35	200	65	130	100	(h)(1)	15%
R-2, "Small Town" Residential District	10,890 (1/4 acre) (a)	80 (b)	2	35	25	10	25	35	(h)(2)	30%
C, Commercial District	(c)	(b, c)	3 (d)	45 (d)	0	0 (f)	0 (f)	20	-	(k)
MU, Mixed Use District	(c)	(b, c)	3 (d)	45 (d)	0	0 (f)	0 (f)	20	(i, j)	(k)
PI, Public/Institutional District	(c)	(b, c)	2 (d)	35 (d)	0	0 (f)	0 (f)	20	-	(k)
CR, Conservation/Recreation District	-	-	2	35	100 (g)	35 (g)	70 (g)	60 (g)	-	5%

(Ord. 2005-0711-03. Passed 7-11-05; Ord. 129-2009. Passed 8-10-09; Ord. 130-2009. Passed 9-9-09; Issue 67 Referendum Vote 11-2-2010; Issue 68 Referendum Vote 11-2-2010.)

FOOTNOTES TO SCHEDULE OF REGULATIONS

(a) In the event of no public water or sanitary sewer service availability, the minimum lot area and width in the R-2 District shall be determined by the amount and configuration of land necessary to accommodate private well(s) and or septic system(s), as determined by the Summit County General Health District. In no case, however, shall the minimum lot area be less than 10,890 square feet.

(b) In all districts, in addition to meeting minimum lot width requirements, each lot shall also provide lot frontage conforming to the requirements of Section 1117.05.

(c) In a C, MU, or PI District, lot minimum (area and width) and minimum front and side setback requirements shall be determined by the ability of a proposed use to meet all other requirements of this Ordinance.

(d) In a C, MU or PI District, as well as for additional uses in R-1 and R-2 Districts as specified in this Ordinance, additional building height may be permitted with Commission approval, upon

providing justification to the Commission that the height is necessary for the operation of a proposed use.

(e) In all districts, on a corner lot, the side yard abutting the secondary street shall be increased to the front yard for the district in which the lot is located.

(f) In a C, MU, or PI District, where a lot abuts land in an R-1 or R-2 District, any side yard abutting such land shall be increased to 20 feet.

(g) In a CR District, there shall be no setback requirements for any lot line that abuts another lot in a CR District.

(h) (1) Single-family dwellings in the R-1 District shall comply with the following minimum floor area requirements:

(A)

Dwellings with or without basement	<u>1400 sq. ft.</u>
First floor of two-story or tri-level	<u>800 sq. ft.</u>

(B)

Single Family dwelling shall comply with the following maximum floor area requirements:

<u>Dwelling with or without basement</u>	<u>5500 sq.ft.</u>
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(2) Single-family dwellings in the R-2, MU and C Districts shall comply with the following minimum floor area requirements:

(A)

<u>Dwellings with or without basement</u>	<u>1000 sq. ft.</u>
<u>First floor of two-story or tri-level</u>	<u>700 sq. ft.</u>

(B)

Single family dwelling shall comply with the following maximum floor area requirements:

<u>Dwelling with or without basement</u>	<u>2800 sq.ft.</u>
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(i) Two and three family dwellings on individual lots shall comply with the following minimum floor area requirements per unit:

(1)

<u>Dwellings w/o basement</u>	<u>1,150 sq. ft.</u>
<u>Dwellings with <u>or without</u> basement</u>	<u>1,000 sq. ft.</u>
<u>First floor of two-story or tri-level</u>	<u>750-700 sq. ft.</u>

(2)

Two family buildings in the R-2 and MU Districts shall comply with the following maximum building area requirements:

<u>Building with or without basement, includes both units</u>	<u>3200 sq.ft.</u>
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(j) Multiple family dwellings in a multifamily development shall comply with the following minimum floor area requirements per unit:

Unit with one bedroom	400 <u>400</u> sq. ft.
Unit with two bedrooms	550 <u>550</u> sq. ft.
Unit with three or more bedrooms	700 <u>700</u> sq. ft.

(k) In a C, MU ~~MU~~ or PI District, maximum lot coverage shall be determined by the ability of a proposed use to meet all other requirements of this Ordinance.

CHAPTER 1115
Historic Preservation Overlay District
(Entire new chapter)

1115.01 HISTORIC PRESERVATION OVERLAY DISTRICT.

Purpose and Intent. In order to promote the economic and general welfare of the people of the Village of Peninsula and of the public generally and ensure the harmonious, orderly, and efficient growth and development of the municipality; it is deemed essential by the Village Council that the qualities relating to the history of the Village and a harmonious outward appearance of structures which preserve property values and attract tourists and residents alike be preserved. Qualities related to the above-stated purpose include: the continued existence and preservation of historic areas and buildings; the continued construction of buildings in historic styles; and a general harmony as to style, form, proportion, texture, and material between buildings of historic design and those of more modern design. Such purpose is advanced through the preservation and protection of the old historic or architecturally worthy structures and quaint neighborhoods that impart a distinct aspect to the Village and serve as visible reminders of the historical and cultural heritage of the Village, the State, and the nation.

1115.02. HISTORIC PRESERVATION OVERLAY DISTRICT DEFINED

The Historic Preservation Overlay District shall have the boundary as outlined in Exhibit A attached to this Chapter. As an overlay district, it shall not restrict any uses or requirements of the underlying zoning district but shall establish requirements in addition to the district regulations relating to building and site changes.

1115.03. HISTORIC PRESERVATION OVERLAY DISTRICT REVIEW BOARD

(a) Appointment. The Planning Commission shall be the Historic Preservation Overlay Review Board of the Village and shall operate in accordance with any rules of procedure adopted by the Commission.

(1) The Historic Preservation Overlay Review Board shall have the following duties and powers with regard to the Historic Preservation Overlay District:

- A. Issue Certificates of Appropriateness; and
- B. Hear requests for and approve or deny the demolition of buildings, structures, or parts of buildings or structures in the Historic Preservation Overlay District.

(2) In order to obtain necessary technical assistance, the Historic Preservation Overlay Review Board shall be authorized to retain Architects, Engineers, Historians, or other professionals to assist with and provide guidance in the decision-making process of the Board. When the Board determines expert advice is necessary to evaluate a proposed application relative to the requirements of this ordinance, the Board shall advise the applicant that such assistance is required. Fees for such outside consultants and all administrative and legal costs pertaining to the review and processing of any application shall be collected in advance of any reviews, inspections, or issuance of any permits or approvals.

(3) Interpretation. The Board shall have the power to interpret the design criteria as outlined in the Chapter for the district. The interpretation of the Board, as it relates to the design criteria, shall be final. Where questions occur as to the location of any boundary line of a Historic Preservation Overlay District, the Board shall interpret the map in such a way as to carry out the purpose and intent of this chapter.

1115.04. HISTORIC PRESERVATION OVERLAY DISTRICT CERTIFICATE OF APPROPRIATENESS REQUIRED.

(a) Within the boundaries of the Historic Preservation Overlay District, new structures or major additions or alterations to existing structures shall not be constructed, nor shall existing structures or portions thereof be demolished, until a certificate of appropriateness has been issued. For purposes of this chapter, major additions or alterations shall be defined as any construction that increases or decreases the square footage of the principal structure by at least 400 sq. ft. or 25% or more of the structure, whichever is less.

(b) However, a certificate of appropriateness shall not be required for:

(1) Accessory structures such as garages, sheds, fences, or signs.

(2) Ordinary maintenance and repair where the purpose of the work is to correct deterioration to the structure or where no change is made to the appearance of a building or grounds. Ordinary maintenance and repair include, but is not limited to:

A. Repainting a building in the existing color palette;

B. Replacement of windows and/or glass but not the style the of windows;

C. Caulking and weather-stripping;

D. Landscaping;

E. Repairs to walks, patios, fences, and driveways;

F. Replacement of small amounts of missing or deteriorated original or existing trim, roof coverings, porch flooring, steps, etc.;

G. Replacement of gutters and downspouts, roof ventilators on rear slopes, and chimney caps;

H. Installation of house numbers and mailboxes;

I. Repair of existing street or yard lighting; and

J. Similar maintenance items.

(3) Any construction, alteration, or demolition duly approved prior to the effective date of this chapter.

(4) Any construction, alteration, or demolition which only affects the interior of the structure.

(5) Any alteration or demolition that is necessary to correct or abate a condition which has been declared unsafe by the Building Official or the Fire Chief after notification to the Historic Preservation Overlay Review Board and Zoning Officer and consultation with the Village staff and where emergency measures have been declared necessary by such departments.

1115.05. HISTORIC PRESERVATION OVERLAY DISTRICT PROCEDURES FOR ISSUANCE OF A CERTIFICATE OF APPROPRIATENESS BY THE HISTORIC PRESERVATION OVERLAY REVIEW BOARD

(a) An application for a certificate of appropriateness shall be made on a form provided by the Zoning Officer. New construction and major additions or alterations and/or demolitions shall be reviewed by the Historic Preservation Overlay Review Board. The Historic Preservation Overlay Review Board shall meet as necessary on the dates of regularly scheduled Planning Commission Meetings to review applications that have been received by the Village at least ten working days prior to each regularly scheduled meeting. The Chairperson may call additional meetings from time to time on dates other than regularly scheduled Planning Commission meeting dates. The applicant shall be informed of the time and place at which the Historic Preservation Overlay Review Board will consider the application, and the applicant shall be permitted to be heard at that meeting.

(b) An application for a certificate of appropriateness is not considered complete until all illustrative material necessary to adequately describe the proposed project has been submitted. The Historic Preservation Overlay Review Board may refuse to consider an application for a certificate of appropriateness if it determines that insufficient information has been provided by the applicant.

(c) Every application or review involving new construction of buildings and other site improvements or major alterations or additions to existing structures in the Historic Preservation Overlay District falling within the scope of this ordinance shall be accompanied by drawings of the proposed structures, site improvements, or alterations. Such drawings shall comply with the standards of Section 1149.04 of this Zoning Code. In addition, such plans shall be accompanied by samples of materials for review and clarification. Such documents shall be filed with the Village, in sufficient number for the Historic Preservation Overlay Review Board, with the appropriate fees and deposit, if required.

(d) Prior to either the preparation of working drawings and specifications or calling for proposals or bids from contractors, applicants are encouraged to prepare preliminary scale drawings and outline specifications, including samples, for review and informal discussion with the Historic Preservation Overlay Review Board. The purpose of this review shall be to identify any inconsistencies between the proposed work and the design guidelines and allow for discussion of alternate treatments.

(e) In reviewing an application for a certificate of appropriateness, the Historic Preservation Overlay Review Board shall follow the following procedures and criteria.

- 1) The Historic Preservation Overlay Review Board shall state the basis for its determination and evaluate whether:
 - a. The building, structure, appurtenance, or site will be properly preserved.
 - b. The proposed work is consistent with the historic and architectural character of the building, structure, appurtenance, or site and complies with the standards established by Section 6.
 - c. The project will have a negative impact on the historical or architectural character of the property or site.
- 2) If the structure does not receive a positive review from the Historic Preservation Overlay Review Board, then a certificate of appropriateness shall not be issued, unless:

- a. The proposed alterations are necessary for the continued viability of the structure, and the costs of making the improvements in such a manner to meet the above findings render the building incapable of earning an economic return upon its value at the time or upon future sale of the property.
- b. The proposed project is required for the physical functioning of the building or health or safety reasons, with no reasonable alternative available.
- c. If the Historic Preservation Overlay Review Board finds that either of the latter two circumstances exists, every effort shall be made to minimize the adverse impact of the work and allow for the work to be reversed in the future.

3) Requests for approval of demolition shall follow the procedures established in Section 7.

(f) In reviewing an application for a certificate of appropriateness, the Historic Preservation Overlay Review Board shall not consider interior arrangements, detailed designs, or features not subject to public view and/or view from surrounding properties. The Board shall not impose any requirements except for the purpose of preventing developments that are architecturally incompatible with the historic aspects of the Historic Preservation Overlay District.

(g) If the Historic Preservation Overlay Review Board approves an application, it shall issue a certificate of appropriateness which shall be signed by the Chairperson or Vice Chairperson and be attached to the application and transferred to the office of the Zoning Officer. All prints approved by the Historic Preservation Overlay Review Board shall be stamped accordingly. The Zoning Officer shall thereupon process the application in the usual manner.

(h) If the Historic Preservation Overlay Review Board disapproves such plans, it shall state its reason for doing so and transmit a record of such action and reason to the Zoning Officer and the applicant. At that point, no further action shall be taken by the Zoning Officer on the application. The applicant may modify the application to make it acceptable to the Zoning Officer or Historic Preservation Overlay Review Board and shall have the right to resubmit the application at any time. In the alternative, the applicant may appeal the decision to the Board of Zoning Appeals. The appeal shall be filed on the appropriate forms within thirty (30) days of receipt of the decision of the Historic Preservation Overlay Review Board.

(i) The Historic Preservation Overlay Review Board shall act within 60 days of receipt of a complete application. The failure of the Historic Preservation Overlay Review Board to approve or disapprove such application within such time, unless mutually agreed upon by the applicant and the Historic Preservation Overlay Review Board, shall be deemed to constitute approval, and the Zoning Officer shall thereupon process the application without regard to the certificate of appropriateness.

(j) After the permit has been processed by the Zoning Officer in accordance with these procedures, the project shall, from time to time, be inspected in the field to review the construction, reconstruction, alteration, maintenance, or repair. Necessary action shall be taken to assure compliance with the approved application.

1115.06. HISTORIC PRESERVATION OVERLAY DISTRICT DESIGN CRITERIA

The United States Secretary of the Interior Standards for the Treatment of Historic Properties may be used as a guide to assist the Historic Preservation Overlay Review Board in the issuance of certificates of appropriateness.

(a) GENERAL STANDARDS

- 1) Building proportion (height, depth, and width) for new construction shall be such that it is similar to any immediately adjacent structures on the same street, or streets of a corner lot. Any exterior modifications or additions to existing structures shall maintain the proportions of wall height and length, window and door opening sizes, and roof height and slope as the original structure. New principal structures shall conform in these regards to the proportions of adjoining structures. All existing and new principal structures shall maintain a rhythm of the masses to openings.
- 2) Materials utilized in exterior renovations, additions, and construction of new principal structures shall either match the appearance of the materials used in construction of the original buildings or shall be modern construction materials which create the same effect. Such materials shall not be a cosmetic treatment which simulates original fabric.
- 3) All exterior colors shall be appropriate to the architectural style and time period in which the structure was built. Visual relationships of the streetscape shall be maintained.
- 4) Decorative detail items of new construction or major additions or alterations such as chimneys, gutters, downspouts, gables, soffits, hardware, light fixtures, and shutters shall be compatible with the architectural style of the principal structure. Materials used for and design of decorative details may be modern reproductions, which create the same effect.
- 5) Techniques utilized in the rehabilitation of existing exterior surfaces shall be sympathetic to the surface materials.

(b) STANDARDS FOR MAJOR ADDITIONS OR ALTERATIONS

- 1) Every reasonable effort shall be made to use the property for its originally intended purpose or to provide a compatible use requiring minimal alteration.
- 2) Each property shall be recognized as a product of its own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- 3) Deteriorated architectural features shall be repaired rather than replaced whenever possible, substantiated by historic, physical, or pictorial evidence.
- 4) The gentlest means possible shall be used to clean the property's surface if necessary. Sandblasting and other cleaning methods that will damage the historic building material are prohibited unless specifically approved by the Historic Preservation Overlay Review Board.
- 5) Archaeological resources affected by or adjacent to any alteration shall be protected and preserved.
- 6) Contemporary design for alteration to a property shall not be discouraged when such alteration does not destroy significant, historical, architectural, or cultural material

and character of the property, its environment, and surrounding contributing properties.

- 7) Whenever possible, a new major addition or alteration shall be accomplished so that its future removal will not impair the essential form and integrity of the structure.
- 8) Materials utilized in exterior renovations and additions to the principal structures shall either match the appearance of that used in construction of the original buildings or shall be modern construction materials which create the same effect. The materials shall not be a cosmetic treatment which simulates original fabric. Decorative detail items such as chimneys, gutters, downspouts, gables, soffits, hardware, light fixtures, signs, and shutters shall be compatible with the architectural style of the principal structure.
- 9) In passing upon appropriateness, the Historic Preservation Overlay Review Board shall consider, in addition to any other pertinent factor, the architectural characteristics typical of structures in the District; and the historical and architectural value and significance, architectural style, general design, arrangement, texture, material, and color of the architectural feature involved and its relation to the architectural features of other contributing properties in the immediate neighborhood.

(c) STANDARDS FOR NEW CONSTRUCTION.

- 1) New structures should look new, but relate to existing contributing properties surrounding the new structure. Building height, width, mass, and proportion affect the degree of compatibility between the old and the new.
- 2) Physical size and scale shall be compatible to existing contributing properties without overwhelming them.
- 3) The proportion of openings, width, and height of windows, doors, and entries, shall be visually compatible with adjacent contributing properties and open space.
- 4) The rhythm or relationship of solid spaces to voids (i.e., walls to windows and doors) in the facade of a structure shall be visually compatible with adjacent contributing properties and open spaces in its environment.
- 5) The rhythm of spacing, the relationship of a structure to the open space between it and adjoining structures, shall respect the surrounding environment.
- 6) The rhythm of projections, the relationship of entrances, porches, and other projections to sidewalks or streets, shall be guided by the streetscape provided by adjacent and visually related structures and open spaces.
- 7) The choice of material, texture, and color for the facade of the structure should relate attractively to and be tempered by the predominant material, texture, and color of adjacent and visually related structures.
- 8) Preservation and allocation of appropriate green spaces shall be encouraged and respective of the rhythm or relationship of solid spaces to voids.

- 9) The scale, size, and mass of structures in relation to open spaces, openings, and projections shall be compatible with adjacent, visually related structures and open spaces.
- 10) A structure that has frontage on more than one street or alley resulting in multiple facades shall require application of compatibility standards to each facade.
- 11) The Historic Preservation Overlay Review Board shall consider, in addition to any other pertinent factor, the architectural characteristics typical of structures in the district and the historical and architectural value and significance, architectural style, general design, arrangement, texture, material, and color of the architectural feature involved and its relation to the architectural features of other structures in the immediate neighborhood.

1115.07. HISTORIC PRESERVATION OVERLAY DISTRICT DEMOLITION AND MOVING OF STRUCTURES.

- (a) The demolition of all or part of a designated historic structure or of an existing building within a designated Historic Preservation Overlay District shall require the approval of the Historic Preservation Overlay Review Board, in accordance with the following procedures, upon application by a property owner.
 - (b) The Historic Review Board shall then have up to 60 days from the date of the referral to determine whether the structure is historically significant. The Historic Review Board may engage the assistance of organizations with expertise in this area to assist it in making its determination.
 - (c) If the Planning Commission finds that the structure or part of the structure requested to be demolished is not historically significant, and the demolition will not adversely affect the character of the area, including the appearance of the streetscape in terms of the overall scale, rhythm, design, or unity, then a Certificate of Appropriateness may be issued and the demolition permit may be granted.
 - (d) In the event the Planning Commission finds the structure is historically significant, the Planning Commission may issue a determination that the demolition of the structure be delayed for up to an additional 180 days, or a longer period with the agreement of the property owner, to permit the exploration of preservation alternatives, such as: designating the structure as a historic landmark, finding a purchaser who may be interested in rehabilitating the structure, raising money to rehabilitate the structure, or finding alternate sites for the proposed post-demolition project.
 - (e) In making its determination that the structure is historically significant, the Planning Commission shall consider the following factors:
 - 1) The structure's architectural and design significance;
 - 2) Whether the building is one of the last remaining examples of its kind in the neighborhood, Village, or region;
 - 3) Whether the structure has historical events or persons associated with it, and
 - 4) The condition of the structure.

(f) The structure may be demolished at any time within or after the additional 180-day period specified in paragraph (d) hereof if the Planning Commission determines that, despite the structure's historical significance, there are no feasible alternatives to demolition. Factors to be considered in making a no feasible alternatives determination are the following:

- 1) Realistic alternatives (including adaptive uses) are not likely because of the nature or cost of the work necessary to preserve the structure;
- 2) After a bona fide, reasonable effort, a purchaser for the structure or rehabilitation solution that will result in the preservation, rehabilitation, or restoration of the structure cannot be found;
- 3) Economic hardship on the part of the property owner, making delaying the demolition request unreasonable;
- 4) The property is an imminent and substantial danger to the health and/or safety of the public due to its deteriorating condition;
- 5) The structure has been burned or damaged by an event beyond the property owner's control with more than 50% of the structure affected;
- 6) The applicant has submitted a rescue plan that mitigates any adverse effects of the proposed removal upon the property, the streetscape, and the historic district through:
 - a. New construction that is consistent with the design standards and which contributes to the architectural or historic integrity of the historic district;
 - b. Exterior rehabilitation or restoration of the remaining structure that is consistent with the architectural design standards and which contributes to the architectural or historic integrity of the streetscape;
 - c. Landscaping the parcel consistent with the design standards, providing for its care as common space for the benefit of the general public and relocating the remaining structure in an appropriate setting or preserving of the salvageable architectural materials.

(g) As an alternative to demolition which has been approved pursuant to this section, the Historic Preservation Overlay Review Board may approve the moving of an existing building where:

- 1) The new surroundings would be harmonious with the historical and architectural character of the building; and
- 2) The relocation would help preserve and protect a building of historical interest.

1115.08. HISTORIC PRESERVATION OVERLAY DISTRICT PROTECTIVE MAINTENANCE REQUIRED; EMERGENCY CONDITIONS.

All contributing buildings and structures in the Historic Preservation Overlay District shall be properly maintained and repaired at the same level required elsewhere in the Village. Should an owner deliberately omit essential maintenance and repairs, which would eventually result in the building becoming so run down that it would be constitutionally unreasonable for the Village to refuse to allow the owner to demolish the building, the Historic Preservation Overlay Review Board shall bring this matter to the attention of the Zoning Officer, who shall immediately require of the owner or agent to undertake protective maintenance and repair to further the

economic, health, safety, and general welfare of the Village. Nothing in this chapter shall be construed to prevent ordinary maintenance or repairs of any structures.

1115.09. FEES.

All applications for certificates of appropriateness and appeals shall be accompanied by the following fees:

Certificate of Appropriateness: \$25

Deposit for Technical Assistance: As determined by the Historic Preservation Overlay Review Board.

EXHIBIT A



CHAPTER 1117
General Provisions

- 1117.01** Conformance required.
- 1117.02** Buildings under construction.
- 1117.03** Building grades.
- 1117.04** Building to be moved.
- 1117.05** Location of buildings.
- 1117.06** No implied right of completion.
- 1117.07** Garage, basement or other accessory dwellings.
- 1117.08** Accessory dwellings in nonresidential districts.
- 1117.09** Accessory buildings in residence districts.
- 1117.10** Accessory uses and buildings in nonresidential districts.
- 1117.11** Yard area for a building cannot be used for another building.
- 1117.12** Fences, walls and hedges.
- 1117.13** Front yard exception.
- 1117.14** Yard encroachments.
- 1117.15** Front yard uses.
- 1117.16** Double frontage lots.
- 1117.17** Exceptions to height limitations.
- 1117.18** Excavations or holes.
- 1117.19** Drainage channels and floodplains.
- 1117.20** Outdoor parking or storage of recreational vehicle and equipment.

1117.01 CONFORMANCE REQUIRED.

All land, buildings, structures, or parts thereof, shall hereafter be erected, constructed, reconstructed, altered, maintained, used or occupied in conformity with the provisions of this Ordinance.

1117.02 BUILDINGS UNDER CONSTRUCTION.

Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this Ordinance and upon which building actual construction has been diligently carried on, and provided, further, that such building was completed within two years from the date of passage and publication of this Ordinance.

1117.03 BUILDING GRADES.

Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. A sloping grade, beginning at the sidewalk level, shall be maintained and established from the center of the front lot line to the finished grade line at the front of the building, and from the rear wall of the building to the rear lot line; however, that shall not prevent the grading of a yard space to provide sunken or terraced areas, provided proper means are constructed and maintained to prevent the runoff of surface water to flow onto the adjoining properties. When a new building is constructed on a vacant lot between the existing buildings or adjacent to an existing building, the existing established grade shall be considered in determining the grade around the new building, and the yard around the new building shall be graded in such a manner as to meet

existing grades and not to permit runoff of surface water to flow onto the adjacent properties. Grades shall be approved by the Street Commissioner or his designee.

1117.04 BUILDING TO BE MOVED.

Any building or structure, which has been wholly or partially erected on any property, shall not be moved to and be placed upon any other property in this Village until a permit to use such building or structure, after being moved, shall have been secured under this Ordinance. Any such building or structure shall fully conform to all the provisions of this Ordinance, in the same manner as a new building or structure. Before a permit may be issued for moving a building or structure, the Zoning Officer shall inspect same and shall determine if it is in a safe condition to be moved, whether it may be reconditioned to comply with the Building Code and other Village requirements for the use and occupancy for which it is to be used and whether it will be of similar character with the buildings in the area where it is to be moved.

1117.05 LOCATION OF BUILDINGS.

Except where otherwise provided for in this Ordinance, every dwelling shall be located on a lot abutting upon a street or permanent easement of access to a street, other than an alley. No dwelling shall be built upon a lot needing access to a street unless said lot has a frontage of not less than 20 feet upon a street or upon a permanent easement of access to a street. Such easement of access shall have a width throughout of not less than 20 feet. In addition, adequate space shall be provided for emergency vehicle access to all buildings.

1117.06 NO IMPLIED RIGHT OF COMPLETION.

The construction of a building or structure to a less height, area, or bulk than originally planned, prior to the effective date of this Ordinance, does not entitle its owner to later construct such building or structure to its full height, area and bulk. Any such building or structure shall be treated no differently than any other building or structure and shall conform to all provisions of this Ordinance applicable thereto.

1117.07 GARAGE, BASEMENT OR OTHER ACCESSORY DWELLINGS.

Garages, basements, or other areas which could accommodate accessory dwellings shall not be occupied for dwelling purposes unless they comply with all the provisions of this Ordinance.

1117.08 ACCESSORY DWELLINGS IN NONRESIDENTIAL DISTRICTS.

When a dwelling occupies a space above a business use, such dwelling unit shall provide a minimum floor area of not less than 720 square feet.

1117.09 ACCESSORY BUILDINGS IN RESIDENCE DISTRICTS.

(a) An attached accessory building, including a carport attached to a principal building, on a lot, shall be made structurally a part thereof, and shall comply in all respects with the requirements of this Ordinance applicable to the principal building. Breezeways, for the purpose of this Ordinance, as an attachment between the garage or carport and the main building, shall be considered as part of the main building, but breezeways shall not be considered as constituting livable floor area.

(b) An accessory building and garage unless attached and made a part of the principal building on a lot as above provided shall not be nearer than 10 feet to the principal building.

(c) A detached accessory building or garage shall not exceed one story or 15 feet in height, unless one of the following applies:

(1) On lots of 1 acre in area or larger, a detached accessory building shall be permitted a maximum height of 20 feet provided the accessory building is located a minimum of 35 feet from a property line.

(2) On lots of 2.5 acres or larger, a detached accessory building shall be permitted a maximum height of 35 feet provided the building is located a minimum of 65 feet from a property line.

(d) No accessory building shall ~~not~~ exceed 50 percent of the floor area of the principal building. The maximum number of accessory buildings on a lot shall be three (3). The total square footage of all accessory buildings shall not exceed 75 percent of the floor area of the principal structure.

(e) All accessory buildings shall be located behind the front line of the principal building, and shall not be nearer than five feet to any lot line, except as permitted by section (c), provided that where the side yard abuts upon a side street, such accessory building shall not extend nearer to the side street lot line than the main portion of the principal building, and

(f) In no case shall the entrance door to a garage be less than 20 feet from any street lot line.

(dg) -No accessory building or structure shall be erected before the erection of the principal building or structure on any residential lot.

1117.10 ACCESSORY USES AND BUILDINGS IN NONRESIDENTIAL DISTRICTS.

In nonresidential districts, accessory buildings and uses, if not for dwelling purposes, may occupy any of the ground area which the principal building is permitted to cover. Accessory buildings, such as buildings for parking attendants, guard shelters, gate houses, and transformer buildings, may be located in the front or side yard. Parking of automobiles and other motor vehicles is permitted in the front and side yards in nonresidential districts if screened from a public street ~~by a~~ by a greenbelt ~~eight~~ five feet in width.

1117.11 YARD AREA FOR A BUILDING CANNOT BE USED FOR ANOTHER BUILDING.

No space which for the purpose of a building has been counted or calculated as part of a side yard, rear yard, front yard, or other open space required by this Ordinance may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard or other open space requirement of or for any other building. The minimum yards or other open spaces, including lot area per family or percentage of lot coverage required by this Ordinance for each and every building existing at the time of passage of this Ordinance or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building.

1117.12 FENCES, WALLS AND HEDGES.

(a) In any residential district, no fence or portion thereof shall exist within two feet of the front of any street lot line.

(b) In any residential district, no fence shall be erected which unreasonably obstructs the front yard sight line or is otherwise hazardous.

(c) All fences shall not be more than 4 feet in height unless otherwise permitted. No berm shall be used to allow a fence to exceed the maximum allowed height of a fence as measured from the natural grade of land without the berm.

(1) R-2 Small Town Residential. All fences in front of the front building line or on the street side(s) of corner lots shall be limited to not more than 4 feet. All side and rear fences shall be limited to not more than ~~6~~ 4 feet when located 10 feet behind the front building line of the dwelling.

(2) R-1 Rural Residential. All fences in front of the front building line or on the street side(s) of corner lots shall be limited to not more than 4 feet. All side and rear fences shall be limited to not more than 6 feet; when located 10 feet behind the front building line of the dwelling.

(3) C Commercial. All side and rear fences shall be limited to not more than 6 feet when located behind the front building line.

(4) Industrial, Research and Laboratory Uses as described in Section 1109.03 shall be permitted fencing 6 feet in height in the side and rear of the property.

(d) Fences or walls required by some federal, State or other documented regulation to surround and/or enclose public utility installations shall not be limited as to height in any district.

(e) In all districts which require a front yard, no obstruction in excess of three feet shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting points 25 feet from the intersection of the street right-of-way lines or the projected points thereof.

(f) Any fence with an unfinished side that shows posts must have an unfinished side showing posts toward the property owner installing the fence.

(g) Materials. Fences shall be constructed out of any of the following materials: redwood, cedar, or No. 1 pressure treated wood, recycled lumber or vinyl closely resembling wood, wrought iron or aluminum closely resembling wrought iron, stone, brick, concrete with stone or brick veneer, or pre-cast concrete simulated stone or brick. All other materials including but not limited to chain link, vinyl clad chain link, woven wire or plastic mesh (with or without wooden slats) are prohibited unless otherwise and expressly permitted in the Ordinance.

(1) R-1 Rural Residential Side and Rear Materials. R-1 side or rear yard fencing materials may include chain link galvanized or black in color. R-1 side or rear yard fencing may incorporate electrical or barbed wire (not razor wire) for the purpose of animal containment.

(2) R-2 Small Town Residential Side and Rear Materials. R-2 side or rear yard fencing materials may include chain link galvanized or black in color.

(3) C Commercial. C side and rear yard fencing material that is intended to screen a dumpster or the outside storage of materials shall be constructed of a material that provides a solid screening to the adjacent property.

(h) District Abutments. Fencing abutting any R-2 Small Town Residential District lot line shall be limited to not more than ~~4~~ 6 feet and shall comply with the materials requirements set forth in subsection (g) hereof, except as required by subsection (g) (3).—

1117.13 FRONT YARD EXCEPTION.

When a majority of the buildings in any particular block have been built at the time of the adoption of this Ordinance, no building thereafter erected or altered shall project beyond the minimum building line thus established, provided, that no residential building shall be required

by this Ordinance to be set back more than 100 feet, and provided further that this regulation shall not be interpreted to reduce the buildable width of a corner lot facing an intersecting street.

1117.14 YARD ENCROACHMENTS.

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building and shall not encroach into the required space for yards or courts or occupied space. However, there shall be permitted certain exceptions to this requirement as limited and restricted hereinafter.

(a) Permitted exceptions for such projections shall be:

- (1) One chimney or one fireplace, limited to not more than eight feet in length and projecting not more than 12 inches into the allowable side yard space.
- (2) Cornices, limited to not more than 16 inches in width, including the gutter.
- (3) Platforms, terraces, steps below the first floor level.
- (4) Unenclosed porches or other ground-level, unenclosed projections not over one story in height.

(b) Limitations governing the projections, as so permitted, shall be:

(1) In a residential district, such excepted projections shall not extend more than eight feet beyond the established front building line, shall not extend beyond any building line established across the rear of the lot, and shall not extend nearer than five feet to an interior side lot line or nearer than five feet to a side lot line abutting upon a street.

(2) In a nonresidential district, such excepted projections shall not extend beyond any established building line.

1117.15 FRONT YARD USES.

Any portion of a residential lot located in front of a building line, or between a front street lot line and the adjacent building line, shall be used only for ornamental purposes, and nothing other than signs permitted by this Ordinance, driveways and walkways, as well as trees, shrubs and other landscaping, shall be placed, erected or planted thereon.

1117.16 DOUBLE FRONTAGE LOTS.

On double street frontage lots, a front yard, as prescribed for the district, as herein established, shall be provided on both streets.

1117.17 EXCEPTIONS TO HEIGHT LIMITATIONS.

Height limitations of this Ordinance shall not apply to chimneys, church spires, clocks or bell towers or other similar architectural design elements, or public monuments, provided that such structures do not exceed 20 feet above the maximum height in the district in which they are located. Architectural features which include building and roof line elements which are intended to add architectural interest and not for the purpose of adding signage to the building may be allowed to exceed the maximum height of the district by not more than 20 feet. The building area encompassed by the proposed building and/or roof line element shall not exceed 25 percent of the footprint of the total structure. The Commission may specify a lower height limit for any structure that requires approval as a Conditional Use. In determining the appropriate height, the Commission shall consider the character of the surrounding uses, the height of surrounding structures, the potential to obscure light or view to or from existing buildings and surrounding properties, and potential detriment to the use or value of surrounding properties.

1117.18 EXCAVATIONS OR HOLES.

—The construction, maintenance, or existence within the Village of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells, or of any excavations, holes, or pits which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or general welfare, are hereby prohibited. This section shall not, however, prevent construction of excavations under a permit issued pursuant to this Ordinance or the Building Code, including review of plans by the Summit Soil and Water Conservation District and applicable State agencies, where such excavations are properly protected and warning signs are posted in such manner as may be approved by the Zoning Officer. This section shall also not apply to lakes, streams, or other natural bodies of water, or to ditches, streams, reservoirs, ponds or other bodies of water created or existing by authority of the State, County, Village or any other governmental agency.

1117.19 DRAINAGE CHANNELS AND FLOODPLAINS.

Drainage channels and floodplains, which exist and which are indicated in the Long Range Plan, are essential for the maintenance of the health, safety and general welfare of the people of the Village. Any encroachment, filling, or destruction of these drainage channels or floodplains is a violation of this Ordinance; provided, however, that this shall not prevent development of property, when adequate facilities, as determined by the Zoning Officer, are provided to maintain the prime purpose of the drainage channel or flood plain, i.e., the uninterrupted flow of surface water. Said development shall be, among other things, done in compliance with all applicable Village regulations.

1117.20 OUTDOOR PARKING OR STORAGE OF RECREATIONAL VEHICLES

The outdoor parking or storage of recreational vehicle, or other camping or recreational equipment on any property in a Residential District shall be permitted only as hereinafter provided:

(a) All recreational vehicles may be parked or stored on a durable and dustless surface which shall be free of weeds and otherwise well maintained, or if parked on the grass, the grass shall be mowed and maintained consistent with the rest of the lawn.

(b) No recreational vehicle shall be parked or stored unless it is titled to, leased, or used exclusively by the owner of the property or with the owner's approval by one of the permanent occupants of the residence where the recreational vehicle is located. All recreational vehicles must carry a current year license and/or registration, if applicable.

(c) No more than two (2) recreational vehicles may be parked in a driveway for a period of up to sixteen (16) days in each calendar year when the vehicle is owned, leased or controlled by persons visiting the occupants of the dwelling provided the occupant(s) of the dwelling are present and the owner and/or occupant has notified the Zoning Officer.

(d) No recreational vehicle shall be used or leased as a dwelling, office, or other business structure, or for storage of any material, or have permanent connections to any electric,

telephone, water, gas, or fuel source. No material of any nature may be stored beneath any recreational vehicle and/or equipment.

(e) All recreational vehicles and/or equipment shall be kept in good repair.

(f) The Zoning Officer may approve the parking or storage of recreational vehicles t that exceeds the maximum length of time or the number of vehicles set forth in Section (c) or the use of the recreational vehicle as an office or other business structure in section (d), hereof when the Zoning Officer determines that the objectives of this section are achieved because of a large lot size, the topography of the lot, extraordinary screening due to existing buildings or wooded areas, setback from lot lines or other extraordinary circumstance unique to the property or the applicant. Appeals of the Zoning Officer's decision shall be made to the Board of Zoning Appeals.

CHAPTER 1119
Conservation/Recreation Overlay

1119.01 PURPOSE AND INTENT

In addition to the applicable provisions stated in Section 1105.08 and 1105.09, the intent and purpose of the Conservation/Recreation Overlay District is to require, subject to Village Planning Commission and Council approval, planned developments which:

- (a) Maximize the protection of the community's natural resources;
- (b) Conserve (within the framework of natural resource conservation) the "small town" character of the Village;
- (c) Encourage more efficient use of land and public services through unified development;
- (d) Have a harmonious and integrated design and visual character;
- (e) Do not increase the overall density of development within the Village; and
- (f) Establish development review criteria which promote creative design solutions in a manner which best conserves the area's resources.

1119.02 PERMITTED AND SPECIAL USES AND REGULATIONS

- (a) Uses permitted in the underlying R-1 Rural Residential District by Section 1109.03 shall be permitted in the Conservation Overlay District provided the following regulations are adhered to for any proposed development.
- (b) Except as noted in this Chapter all regulations for a residential development in the R-1 Rural Residential District shall apply to any development within a Conservation/Recreation Overlay.
- (c) The Planning Commission may recommend to the Village Council the approval of uses consistent with the purpose and intent and the permitted and conditional uses of the Conservation/Recreation District of this Zoning Code as a Special Use.
 - (1) Special Uses shall conform to the regulations and standards set forth in this Zoning Code for uses and developments in the Conservation/Recreation District.
 - (2) Requests for a Special Use shall be submitted to the Planning Commission in conformance with the requirements of Chapter 1149 related to site plans and shall require Council approval.
- (d) The subdivision of any existing parcel of property shall not be permitted unless the requirements of this chapter are met.

1119.03 MINIMUM PROJECT AREA FOR CONSERVATION DEVELOPMENT

- (a). The gross area of a tract of land proposed for development according to the conservation development shall be a minimum of twenty-five (25) acres, but shall not include area within any existing public street rights-of-way.
- (b). The area proposed shall be in one (1) ownership or, if in multiple ownership, the application shall be filed jointly by all the owners of the properties included in the conservation development.

1119.04 PERMITTED DENSITY/RESTRICTED OPEN SPACE

- (a) The minimum restricted open space shall be fifty-five percent (55%) of the total project area. Required lots, setbacks and building separations within the disturbed or developed portion of a Conservation Development shall not be included in the calculation of permanent open space for the purposes of complying with the requirements of this section.
- (b) In no case shall the density of the conservation development be more than the lesser of one (1) dwelling unit per four (4) acres or the density determined by a “yield plan” for a conventional four (4) acre lot subdivision which conforms to all Village regulations. A “Yield Plan” is a site plan layout identifying how the property could be developed in conformance with the R-1 Rural Residential District regulations. See Figure 1. Lots within a conservation development shall be not less than 2.5 acres in area.
- (c) The determination of permitted density shall not include any areas designated as flood plain or which are covered by an existing conservation easement.

Figure 1



Yield Plan

1119.05 REGULATIONS FOR RESTRICTED OPEN SPACE

- (a) General Standards: The restricted open space required in Section 1119.04(A) shall comply with the following:
- (1) Restricted open space shall be designed and located to conserve significant natural features and historical and cultural elements located on the site.
 - (2) Areas designated for restricted open space purposes may be:
 - A. Preserved in its natural state,
 - B. Designed and intended for the use and/or enjoyment of residents of the proposed development,
 - C. Utilized for farming when authorized in a conservation easement or in the Association's covenants and restrictions.
 - (3) Restricted open space shall be interconnected with open space areas on abutting parcels where possible.
 - (4) In order to encourage the creation of large areas of contiguous open space, areas that shall not be considered restricted open space include:
 - A. Private roads and public road rights-of-way;
 - B. Parking areas, access ways and driveways within open space areas.
 - C. Other small fragmented or isolated open space areas that have a dimension less than one hundred (100) feet in any direction.
 - (5) Any area within the restricted open space that is disturbed during construction or otherwise not preserved in its natural state, other common areas such as required setback areas, and both sides of new streets shall be landscaped with vegetation that is compatible with the natural characteristics of the site.
 - (6) The restricted open space, including any recreational facilities proposed to be constructed in such space, shall be clearly shown on the general site plan.
 - (7) Restricted open space areas shall not be used for the location of common on-site wastewater disposal systems.
- (b) Prohibition of Further Subdivision of Restricted Open Space.
Restricted open space in a conservation development shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village's Legal Advisor and duly recorded in the office of the Summit County Fiscal Office Recorder Division.

- (c) Ownership of Restricted Open Space.
The restricted open space shall be made subject to a perpetual conservation easement in a form approved by the Village in favor of an organization or agency acceptable to the Village. Conservation easements shall include the Village as third party beneficiary of the terms of the easement with the right, but no obligation, to enforce the provisions of the easement.

1119.06 DEVELOPMENT AND SITE PLANNING STANDARDS

Buildings, structures, pavement, and streets shall be located in compliance with the following development and site planning standards.

- (a) Ownership.
Ownership of lots in a conservation development shall be fee simple. All lots shall comply with the requirements of this section.
- (b) Lot Requirements.
 - (1) Lots for standard detached single-family dwellings included as part of a conservation development, shall be not less than 2.5 acres in area.
 - (2) Lots shall have a minimum width at the front setback line of 250 feet.
 - (3) The applicant shall depict on the development plan the maximum, parameters or building envelopes, to indicate where buildings shall be located, and shall demonstrate that such building locations will be in compliance with the spacing and setback requirements of this section.
- (c) Dwelling Size Regulations
 - (1) Each Dwelling shall comply with the minimum floor area requirements established by Section 1113.01(h).
 - (2) The total aggregate amount of gross livable floor area shall not exceed five thousand five hundred (5,500) square feet per dwelling unit. Gross livable floor area shall mean the sum of the total enclosed area of all floors of a building measured from the inside faces of exterior walls, excluding garages, basements, and uninhabitable attics.
- (d) Perimeter Building Regulations
 - (1) The minimum setback from an existing public street shall be two hundred (200) feet.
 - (2) The minimum setback from the project boundary shall be one hundred (100) feet.
- (e) Interior Building Setback Regulations

- (1) The minimum setback from a proposed interior private street edge of pavement or a public right-of-way, if permitted by the Village, shall be one hundred (100) feet.
 - (2) The minimum side yard setbacks shall be thirty-five (35) feet
 - (3) The minimum separation between dwellings shall be seventy (70) feet.
 - (4) The minimum rear yard setback shall be one hundred (100) feet.
- (f) Height
The maximum height of buildings shall be as provided in Section 1113.01 for R-1, Rural Residential District.
- (g) Resource Protection Regulations
- (1) Wetlands Protection. Wetlands that are required by the Army Corp of Engineers or the Ohio EPA to be retained shall be protected by the following:
 - A. A buffer area having a width not less than twenty (20) feet, measured from the edge of the designated wetland. The area within this buffer shall not be disturbed and shall be retained in its natural state; and
 - B. A minimum building and pavement setback of thirty-five (35) feet, measured from the edge of the designated wetland.
 - (2) Conservation of Riparian Zones:
 - A. A riparian buffer shall be provided along the entire length and on both sides of a river or perennial stream channel. The buffer area shall have a width not less than fifty (50) feet, measured from the river or stream bank.
 - B. Walkways or trails may be permitted to be located within riparian buffers when the Planning Commission determines that such will create minimal change to the riparian buffer.
- (h) General Street Design Criteria
- (1) All streets constructed as part of a Conservation Development shall be private streets unless a public street is specifically authorized by the Village to provide for interconnection or to achieve some other public access purpose.
 - (2) Private streets within a Conservation/Recreation Overlay shall have twenty-two (22) feet of asphalt pavement with berms. Private cul-de-sac streets shall be designed with sufficient turn around areas to adequately accommodate emergency vehicles and service vehicles such as snow plows garbage and fire trucks. Private streets shall be designed and constructed in accordance with the standards and specifications of the Village Engineer.

- (3) Each dwelling unit shall have access to a public street or to a private street internal to the Conservation Development in a manner approved by the Village and said access shall be clearly defined on the site plan. No lots shall front on existing public rights-of-ways unless approved by the Planning Commission.
- (4) Whenever possible streets shall be looped to provide more than one entrance and exit to the development. Intersections with existing rights-of-ways shall be maintained at a minimum necessary for proper traffic circulation.
- (5) Street alignments should follow natural contours and be designed to conserve natural features. Stub streets should be eliminated unless such stub street is necessary based on an overall concept plan for the development of the adjacent property.
- (6) Locations of streets should be planned to avoid excessive storm water runoff and the need for storm sewers.
- (7) The area of the project devoted to streets and related pavement should be the minimum necessary to provide adequate and safe movement through the development.

(i) Pedestrian Circulation Systems

- (1) A pedestrian circulation system shall be included in the conservation development and shall be designed to ensure that pedestrians can walk safely and easily throughout the development. The pedestrian system shall provide connections between properties and activities or special features within the restricted open space system and need not always be located along streets.
- (2) Trails for which public right of passage has been established should be incorporated in the pedestrian circulation system.

(j) Sewage Disposal

Development shall be served by individual or public sewage disposal structures consistent with the Summit County and/or Ohio EPA requirements. Individual sewage disposal systems shall comply with all applicable regulations of the Summit County Health District. If a common on-site system is to be used it shall not be located in the restricted open space.

(k) Architectural Design

Architectural treatments shall demonstrate a cohesive design concept which promotes compatibility among structures and reflects the character of the Village of Peninsula.

1119.07 DEVELOPMENT DESIGN CRITERIA

In addition to the development and site planning standards set forth in Section 1119.06, all elements of a conservation development, particularly the restricted open space areas, shall be designed in accordance with the following criteria to ensure that the project is appropriate for the site's natural, historic and cultural features and meet the objectives of this district.

- (a) Conservation of Sloping Land
The road system and buildings should be located to minimize changes to the topography and the need for cutting and filling.
- (b) Conservation of Woodlands, Vegetation and other Natural Areas
The design and layout of the development should conserve, maintain, and incorporate existing wooded areas, meadows, and hedgerows and tree lines between fields or meadows, especially those containing significant wildlife habitats.
- (c) Conservation of Wildlife Habitats
Wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Environmental Protection Agency and/or by the Ohio Department of Natural Resources should be protected.
- (d) Conservation of Prime Farmland
Farmland that satisfies the USDA definition of "prime" or "locally unique" farmland should be conserved.
- (e) Conservation of Existing Scenic Vistas and Visual Quality of the Environment
Buildings should be located to ensure that scenic views and vistas are unblocked or uninterrupted.
- (f) Conservation of Cultural Resources
Sites of historic, archaeological, or cultural value and their environs should be protected insofar as needed to safeguard the character of the feature, including stonewalls, spring houses, barn foundations, underground fruit cellars, earth mounds and burial grounds.

1119.08 PROJECT REVIEW PROCEDURES

Projects proposed under the Conservation/Recreation Overlay zoning shall comply with the Site Plan Review and approval procedures established by Sections 1149.01 to 1149.06 of the Codified Ordinance of the Village of Peninsula.

1119.09 FEES

Fee shall be in conformance with Section 1149.11 of the Codified Ordinances of the Village of Peninsula.

**CHAPTER 1121
Nonconformities**

- 1121.01 Nonconforming lots of record.**
- 1121.02 Nonconforming lots of record in combination. (Repealed)**
- 1121.03 Nonconforming structures.**
- 1121.04 Nonconforming uses.**
- 1121.05 Termination; restoration.**
- 1121.06 Completion.**
- 1121.07 Reconstruction. (Repealed)**
- 1121.08 Extension.**
- 1121.09 Substitution.**
- 1121.10 Change of tenancy or ownership.**
- 1121.11 Removal of nonconforming use or structure.**
- 1121.12 Nonconformities due to reclassification.**
- 1121.13 Record of nonconforming uses. (Repealed)**

1121.01 NONCONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, a single-family dwelling and customarily accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. 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. Variances of requirements listed in this Ordinance other than lot area or lot width shall be obtained only through action of the Board as provided in this Ordinance.

1121.02 NONCONFORMING LOTS OF RECORD IN COMBINATION. (REPEALED)

(EDITOR'S NOTE: Former Section 1121.02 was repealed by Ordinance 98-2010, passed March 14, 2011.)

1121.03 NONCONFORMING STRUCTURES.

Any lawful nonconforming structure may be continued and maintained, provided there is no physical change other than necessary maintenance and repair of such structure except as permitted hereinafter.

1121.04 NONCONFORMING USES.

Any lawful nonconforming use of land may be continued, provided that such use of land shall not be expanded or extended either on the same or adjoining property, and provided further, that if such use or any portion thereof is discontinued or abandoned, any future use of such land shall be in conformity with the provisions of this Ordinance.

1121.05 TERMINATION; RESTORATION.

In the event that a nonconforming use of land or structure is discontinued or abandoned, for a period of ~~two years~~ 18 months or more, for any reason, the use of the same shall conform

thereafter to the uses permitted in the district in which it is located. In the event that a nonconforming use of land or structure is discontinued or abandoned for less than ~~two years~~ 18 months, the nonconforming use may be restored.

1121.06 COMPLETION.

The adoption of this Ordinance shall not limit the construction of any structure for which a permit had been obtained, subject to the term limits of the permit issued for such purpose.

1121.07 RECONSTRUCTION. (REPEALED)

(EDITOR'S NOTE: Former Section 1121.07 was repealed by Ordinance 04-2011-PC-A6, passed June 13, 2011.)

1121.08 EXTENSION.

A nonconforming use or structure may, as a conditional use, be enlarged, increased or extended beyond the area it occupied as of the effective date of this Ordinance, provided that the Board finds both of the following to be true:

- (a) The enlargement will not interfere with conforming structures and the operation of conforming uses in the District or with circulation on adjacent public streets; and
- (b) The enlargement will cause no greater adverse impacts on surrounding properties than did the original nonconformity.

1121.09 SUBSTITUTION.

Any part of a structure or land occupied by a nonconforming use may be changed to a use of the same or a more restricted classification (subject to such permits as may be required for such use); but where the use of a nonconforming structure or land is hereafter changed to a more restricted classification, it shall not thereafter be changed to a use of less restricted classification.

1121.10 CHANGE OF TENANCY OR OWNERSHIP.

There may be a change of tenancy, ownership or management of an existing lawful nonconforming use, provided there is no change in the nature or character of such use.

1121.11 REMOVAL OF NONCONFORMING USE OR STRUCTURE.

The Commission may, from time to time, recommend to the Council the acquisition of such private property as does not conform in use or structure to the regulations and restrictions of the various districts defined in this Ordinance and recommend the removal of such use or structure in accordance with applicable laws and statutes.

1121.12 NONCONFORMITIES DUE TO RECLASSIFICATION.

The foregoing provisions shall also apply to lots, structures, and uses which hereafter become nonconforming due to any reclassification of districts or zones under this Ordinance.

1121.13 RECORD OF NONCONFORMING USES. (REPEALED)

(EDITOR'S NOTE: Former Section 1121.13 was repealed by Ordinance 79-2010, passed October 11, 2010.)

CHAPTER 1125
Schedule of Off-Street Parking

1125.01 Intent.

1125.02 Off-street loading and unloading space.

1125.03 Off-street parking development conditions.

1125.04 Table.

1125.05 Municipal facilities.

1125.06 Regulations for the development and maintenance of parking lots.

1125.01 INTENT.

The intent of this chapter is to provide for adequate private passenger vehicle and delivery truck parking for different types of land uses within the Village and to set standards for the construction and use of off-street parking facilities. Within this chapter, standards have been identified for:

- (a) The temporary parking of trucks with the primary intent of delivering goods for storage and/or sale to the general public;
- (b) The temporary parking of private passenger vehicles as a use incident to a principal use; and
- (c) The temporary parking of private passenger vehicles as a principal use of the site to serve another use district which has developed without adequate off-street parking.

1125.02 OFF-STREET LOADING AND UNLOADING SPACE.

On the same premises with every building, structure, or part thereof, erected and occupied within the C Commercial District and the MU Mixed Use District ~~for manufacturing, storage, warehouse goods, display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses involving the receipt or the distribution of vehicles or materials or merchandise,~~ there shall be provided and maintained on the lot, adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets or alleys. Such space shall include a 10 foot by 55 foot loading space, with 14 foot height clearance, for every 10,000 square feet or fraction thereof, in excess of 2,000 square feet of building floor use or land use for the above mentioned purposes. A 10 foot by 25 foot loading space with a 14 foot height clearance shall be required for ~~any of the above mentioned uses for non-residential uses of~~ 2,000 or less square feet of building floor use or land use.

1125.03 OFF-STREET PARKING DEVELOPMENT CONDITIONS.

In all zoning districts, off-street parking facilities for the storage or parking of private passenger vehicles hereafter erected, altered or extended after the effective date of this Ordinance shall be provided and maintained as herein prescribed:

- (a) The loading space as required in Section 1125.02 shall not be construed as supplying any off-street parking space.
- (b) When units or measurements used in determining the number of required parking spaces result in requirement of fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one space.
- (c) Whenever a use requiring off-street parking is increased in floor area or changed in use, and such use is located in a building existing on or before the effective date of this Ordinance, additional parking space for such additional floor area or changed use shall be provided and

maintained in amounts hereafter specified for such use; provided, however, in the existing business districts where the Village and various property owners have or may cooperatively develop parking facilities, and additional parking space as required for the increased floor space is not available within the required 300 feet as required in this Ordinance, the Commission may, through negotiations with the owner of such property, vary the location of such required parking spaces or agree to the owner's participation in other authorized parking facilities which will furnish the same amount of space as required for his increased floor space within a distance of not more than 500 feet of the building.

(d) For the purpose of this chapter, "floor area" in the case of offices, merchandising or service types of use, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients or as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise.

(e) Off-street parking facilities for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve. The location of required off-street parking facilities for other than one and two-family dwellings and all multiple dwellings shall be within 500 feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities to the nearest point of the building.

(f) In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use which is mentioned and which such use is similar shall apply.

(g) Nothing in this chapter shall be construed to prevent collective provision of off-street parking facilities for two or more buildings or uses, provided that, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table in this chapter.

(h) Nothing in this section shall prevent the extension of or an addition to a building into an existing parking area which is required for the original building when the same amount of space taken by the extension or addition to a building is provided by an enlargement of the existing parking lot or an additional area within 300 feet of such building.

(i) Such parking areas will be used solely for the parking of private passenger vehicles for periods of less than 24 hours (excluding parking devoted entirely to single family detached, two family or three family dwellings) and shall not be used as off-street loading areas.

(j) No commercial repair work or service of any kind, or sales or display activities, shall be conducted in such parking areas.

(k) Such parking lots shall be used only for parking automobiles and no commercial activities, such as washing or greasing, sale of merchandise or purveying of foodstuffs, repair work or servicing of any kind shall be done thereon.

(l) No building or structure shall be hereafter built or permitted, except as necessary buildings for an attendant, not more than 50 square feet each in area and not more than 15 feet in height.

(m) Plans for development of any such parking lot must be approved by the Zoning Officer before construction is started. No such land shall be used for parking until approved by the Administrative Official.

(n) Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

~~—(o) Bus parking is not permitted within an off-street parking lot, except as designated by this Ordinance.~~

1125.04 TABLE.

(a) The amount of required off-street parking spaces for uses or buildings, additions thereto and additions to existing buildings, as outlined in Section 1125.04, shall be determined in accordance with the following table, and the space so required shall be stated in the application for a permit and shall be irrevocably reserved for such use and/or shall comply with this chapter.

(b) For those uses not specifically mentioned, the minimum requirements for off-street parking facilities shall be in accordance with a use which is similar in type and as approved by the Planning Commission.

Use	Required Parking Space(s)
(1) One-family dwellings.	Two for each dwelling unit.
(2) Two-family dwellings, multiple family dwellings, apartment houses and efficiency apartments.	One and one-half for each unit and/or first bedroom and one additional for each additional bedroom over one.
(3) Tourist homes, cabins or motels.	One for each guest or sleeping room or suite in a tourist home, tourist cabin or motel, plus two additional for management and/or service personnel.
(4) Nurses home or dormitory.	One for each two bedrooms, plus two additional for manager.
(5) (3) Hospital, sanitariums, nursing and convalescent homes and homes for the aged <u>Assisted Living</u> or similar uses.	One for each four beds, plus one for each staff or visiting doctor, plus one for each four employees including nurses. <u>.75 space per bed</u>
(6) Orphanage and institutions of a philanthropic and charitable nature or similar use.	One for each ten beds.
(7) Hotels.	One <u>and half (1.5)</u> for each guest room, plus one additional for each employee.
(8) Private clubs, fraternities, boarding houses and rooming houses.	One for each bedroom, plus two additional for owner or management.
(9) Libraries, museums, post offices. <u>or similar uses</u>	Provide for each building a parking area, other than the front or side yard, which shall be not less in size than two times the floor area of the building. 10 spaces plus one (1) for each 200 sq. ft. of floor area in excess of 2000 sq.ft.
(10) Theaters and auditoriums (other than incidental to schools).	One for each four seats, plus additional equal in number to 50 percent of the number of all employees of the theater. <u>5 spaces</u>
(11) Churches, auditoriums incidental to schools.	One for each four seats in the main assembly area.
(12) Schools, public or private.	One for each two employees (including teachers and administrators), <u>two (2) spaces for each classroom plus one (1) space for each 300 sq. ft. of administrative space, plus sufficient</u>

	space for the safe and convenient loading and unloading of students.
(139) Dance halls, pool and billiard rooms, assembly halls without fixed seats, community centers, civic clubs, fraternal orders, veterans' organizations, union halls and similar types of occupancy.	One for each four people allowed within the maximum occupancy load as established by the Fire Marshal.
(1410) Stadiums and sports arenas.	One for each four seats.
(15) Bowling alleys.	Five for each alley.
(1611) Mortuaries or funeral homes.	One for each 50 square feet of floor space in the slumber rooms, parlors or individual funeral service rooms.
(127) Establishments for sale and consumption on the premises of alcoholic beverages, food or refreshments.	One for each 100 square feet of floor area, plus one for each four employees. One (1) for each 50 sq. ft. or one (1) space for every 2 seats whichever is greater.
(13) Outdoor dining	One (1) space for every four (4) seats or one (1) per 100 sq. ft. whichever is greater.
(1814) Medical or dental clinics, banks, business or professional offices.	One for each 200 square feet of floor area.
(1915) Furniture and appliance stores, personal service shops (not including beauty parlor and barber shops), household equipment or furniture repair shops, clothing or shoe repair or service shops, hardware stores, motor vehicle sales, wholesale stores and machinery sales.	One for each 500 square feet of floor space, plus one for the owner or management, plus one for each two employees. One (1) space for every 250 sq. ft. of floor area
(20) Beauty parlors and barber shops.	One for each employee, plus two for each chair or station.
(21) Boat liveries (including boat trailers) and marine commercial business uses, stores, etc.	One for each two employees, one for each boat well and/or boat, plus space for all cars and boat trailers using said boat livery services, plus one for each 150 square feet of floor space.
(2216) All retail stores, except as otherwise specified herein.	One for each 150 <u>250</u> square feet of floor space.
(2317) Service garages, auto salesrooms, auto repair, collision shops.	One (1) space per 400 sq. ft. of sales/showroom plus one (1) space per service bay or stall plus one (1) space per 200 sq. ft. of additional floor area. One for each two of the maximum number of employees on duty at any one time, plus one for each of the maximum number of salesmen on duty at any one time, plus one each for the owner and/or management on duty at any one time, plus two for each stall in a collision or

	painting shop, plus one for each stall or service area or wash rack in a servicing or repair shop.
(2418) Gasoline filling stations.	One for each employee, plus one for the owner and/or management, plus two for each grease rack, staff for servicing automobiles, or wash rack, plus sufficient additional parking for any additional uses to occur within the building or elsewhere on the property. One (1) space per pump plus one (1) space for every 200 sq. ft. of floor area.
(2519) Industrial establishments including manufacturing, research and testing laboratories, creameries, bottling works, printing shops, warehouses and storage buildings.	One for each three employees computed on the basis of the greatest number of persons to be present at any one period during the day or night. One (1) space for every 400 sq. ft. of floor area.
(20) Indoor and outdoor amusement centers	Shall be determined by Planning Commission through the conditional use approval.

1125.05 MUNICIPAL FACILITIES.

Wherever the Council establishes off-street parking facilities by means of a special assessment district or by any other means, the Council may determine, upon completion and acceptance of such off-street parking facilities by the Council, all existing buildings or uses and all buildings erected or uses established thereafter within the special assessment district or districts shall be exempt from the requirements of this chapter for privately supplied off-street parking facilities.

1125.06 REGULATIONS FOR THE DEVELOPMENT AND MAINTENANCE OF PARKING LOTS.

In all districts where off-street parking lots are the principal use of a site or are permitted as an adjunct to the lawful use of property therein, and such facilities provide parking privileges to owners, occupants, tenants, employees, patrons, customers, members, visitors, and invitees therein, such off-street parking lots shall be constructed and maintained subject to the following regulations:

(a) Application Requirements. An application for a permit to construct such a lot shall be submitted to the Village. After the Administrative Official has determined that the following mandatory provisions have been provided for, a permit shall be issued to the applicant. The application shall include a site plan along with all applicable construction details and elevations and shall include all items identified in this Section. All plans shall be prepared and sealed by a registered engineer.

(b) Ingress/Egress. Adequate ingress and egress shall be provided to meet the approval of the Administrative Official. Backing directly onto a street shall be prohibited.

(c) Construction Requirements. All parking lots shall, at a minimum, be surfaced and maintained with a durable and dustless surface (such as brick, stone, gravel or slag, washed silica pebbles, asphalt or concrete). ~~In addition, a~~ All parking lots shall provide an adequate storm management system as approved by the Planning Commission in consultation with the Village Engineer and/or Zoning Officer. ~~containing 10 or more spaces, except where exclusively serving agricultural and related uses, shall be of material approved by the Commission in consultation~~

with the Village Engineer, shall be constructed to meet the following minimum Village standards:

~~—(1) One inch asphaltic concrete wearing course over three inches of asphaltic base course over eight inches of aggregate base course; or~~

~~—(2) Six inch thick concrete pavement over four inches of aggregate base course.~~

~~All lots shall be graded and proper drainage facilities provided to dispose of all surface water to meet the approval of the Village Engineer. If adequate stormwater discharge facilities are not available, detention or retention shall be provided so that the developed rate of runoff does not exceed the undeveloped rate. Such parking lots shall be continuously maintained with a hard, smooth, dustproof surface at all times.~~

(d) Lighting. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto only the parking area and property which it serves. No lighting shall be so located or visible as to be a hazard to traffic safety. Minimum light levels at any one location within the lots shall be one footcandle, and maximum light levels at any point along the perimeter of the lot shall be one and one-half footcandles. A lighting plan shall be submitted along with the site plan identified above and shall include all light locations, photometric diagrams and light fixture details. In addition, all off-street parking areas shall be designed and screened so as to minimize the presence of headlight glare on adjacent properties, particularly those zoned or used for residential purposes.

~~—(e) Wall or Berm Requirements. In addition to other landscape screen requirements identified under this Ordinance, whenever a parking lot boundary adjoins a public right of way or property zoned for residential use, a barrier consisting of either a masonry wall three feet in height or a berm three feet in height shall be provided and located within the setback area, as determined by the Commission.~~

~~(fe) Lots Located Opposite Residential Property. All street boundaries of such parking lots where residential property is located on the opposite side of the street shall provide screening of vehicle headlights to the residential property. ~~be treated the same as set forth in subsection (e) above, except such portions as are used for entrances and exits.~~~~

(gf) Signs. No sign shall be erected upon such parking lots, except not more than one sign at each entrance to indicate the operator, the purpose for which operated and the parking rates, when charge is permitted. Such signs shall not exceed six square feet in area per site entrance and shall not extend more than eight feet in height above the nearest curb and shall be entirely upon the parking lot.

(hg) Drive Width. Entry driveways shall be at least 12 feet wide for one-way travel and at least 24 feet wide for two-way travel.

(ih) Layout Plan Requirements. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Angle	Stall Width (feet)	Aisle Width (feet)	Stall Length (feet)
Parallel	9	12	23
30"	9	12	18
45"	9	13	18
60"	9	18	18
90"	9	24	18

Facilities for the parking of tour busses, motorcoaches, and other large vehicles shall be designed in accordance with and depending upon the type(s) of vehicles proposing to be accommodated on a site.

~~(j)~~ Parking for the Physically Handicapped. Parking requirements for the physically handicapped shall be in conformance with the Ohio Building Code. Each parking lot that serves a building, except single and two-family dwelling units, shall have a number of level parking spaces as set forth in the following table, and identified by an above-grade sign which indicates the spaces are reserved for physically handicapped persons.

Total Spaces in Parking Lot	Required Number of Accessible Spaces
Up to 25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total
Over 1,000	20 plus 1 space for each over 1,000

~~For all requirements pertaining to stall dimensions, striping, signage, ramps and additional requirements, the applicant shall reference the Federal Register, 28 CFR, part 36, “Americans With Disabilities Act”, title 3, volume 56, number 144.~~

~~(k)~~ Maneuvering Lanes. All maneuvering lane widths shall permit one-way traffic movement, except that the 90 degree pattern may permit two-way movement.

~~(h)~~ Other Driveway Standards. If abutting parking spaces are arranged at an angle other than those listed above, the minimum driveway width shall be determined according to the next higher standard from the table. For example, if 75 degree angle parking is provided, the minimum driveway width shall be the standards for 90 degree angle parking or 24 feet.

~~(m)~~ Driveway Width for Driveways Used by Large Vehicles. If the driveway is regularly used by trash collection vehicles, delivery trucks or other large vehicles, the minimum width shall be increased to 24 feet.

~~(n)~~ Other Improvements. Except for single- and two-family dwellings on individual lots, where three or more unenclosed parking spaces are provided, exclusive of driveways, the following additional improvements are required:

(1) Drainage. Parking areas shall be appropriately graded and equipped with facilities to collect and store stormwater on-site and transmit it to the approved public facilities, as determined by the Village Engineer and/or Zoning Officer.

(2) Marking. All parking spaces shall be appropriately marked with painted lines.

~~(o)~~ Shared Parking and Access Facilities. In conjunction with multiple-family or nonresidential uses, two or more adjoining properties may be developed with shared parking and access facilities when approved under a single unified site plan. In such cases, the setbacks, curbing and perimeter landscaping requirement of this section shall not apply along the common property line.

(po) Setback Requirements. The setbacks of all off-street parking lots shall be in accordance with the requirements identified below:

(1) Front yard. No parking lot stalls or aisles shall be located closer than ~~10~~ 5 feet to the public road right-of-way. In addition, and whenever possible, parking should be located behind building.

(2) Side yard on interior lot lines. No parking lot stalls or aisles shall be located closer than ~~five~~ 10 feet to the adjoining parcel property line of a residential use and must be screened in accordance with section (q) herein. ~~;~~ Parking lot stalls and aisles shall be permitted to abut the property line of an adjacent non-residential use.

(3) Side yard on street side of corner lots. No parking lot stalls or aisles shall be located closer than ~~10~~ 5 feet to a street right-of-way.

(4) Rear yard. No parking lot stalls or aisles shall be located closer than ~~10~~ 5 feet to the rear property line of nonresidential uses. When a parking lot is located adjacent to any residential use, the setback shall be ~~20~~ 10 feet.

(5) Rear yard abutting a street. No parking lot stall or aisle shall be located closer than ~~10~~ 5 feet to a street right-of-way.

(qp) Landscape Screen Requirements. When required, parking spaces and parking areas shall be effectively screened with perimeter landscaping on all sides adjacent to or visible from adjacent properties, streets or alleys. Any parking area containing more than ~~20~~ 50 spaces ~~or including more than 6,000 square feet of impervious surface area, whichever is less,~~ shall also include interior landscaping to further reduce the visual impacts of the areas, to reduce their heat radiation effects, to improve oxygen generation, and to reduce air pollution.

(1) Installation/maintenance. Landscape screening shall be installed and maintained as required in this Ordinance.

(2) Screening. Screening shall be provided for all non-residential uses where three or more unenclosed parking spaces are provided exclusive of driveways. Screening shall be provided in accordance with a landscape plan submitted as part of the application and shall meet the design standards identified in this Ordinance.

(rq) Design Standards for Landscape Screen Requirements.

(1) Deciduous or evergreen shrubs used in a perimeter landscape screen shall be at least two feet high at initial planting and shall be expected and permitted to grow to a height of at least three feet within two years of planting; such materials shall be expected and permitted to grow to a height of five feet.

(2) At initial planting, deciduous trees shall be a minimum of two and one-half inch caliper, ornamental trees a minimum of two inch caliper and evergreen trees a minimum of five feet in height.

(3) The required height of a perimeter landscape screen may be reduced where it is determined by the Village Engineer and/or Zoning Officer that such landscaping would interfere with traffic safety and visibility.

(4) The required height of a perimeter landscape screen may be increased where significant changes in elevations between an adjacent property or public right-of-way make it necessary to comply with the intent of this Ordinance.

(5) The selected combination of plant materials shall be a harmonious combination of living deciduous and evergreen trees, shrubs and vines irregularly spaced to provide an effective year-round screen and to present an aesthetically pleasing view, and all quantities shall be based on

the ~~following densities: on a landscape plan that has been submitted and approved by the Planning Commission.~~

~~A. Deciduous or evergreen shrubs. Based on one shrub for every five feet of linear distance around the site perimeter.~~

~~B. Deciduous or evergreen trees. Based on one ornamental, evergreen, or canopy tree for every 30 feet of linear distance around the site perimeter.~~

(6) Loose groundcover or mulch materials shall be placed or effectively contained so they do not spill over into parking and access facilities or the public right-of-way.

(7) All required landscape features within three feet of the edge of parking or access facilities shall be protected from vehicle encroachment by curbing, wheel stops or similar means.

(8) Where ~~20~~50 or more parking spaces are provided, there shall be at least 10 square feet of interior landscaped area per space provided within the overall perimeter of the parking area.

(9) Interior landscaped areas shall be at least 125 square feet in an area with a minimum dimension of no less than eight feet.

(10) At least one shade tree of a minimum two and one-half inch caliper shall be planted in each interior landscaped area.

(11) There shall be at least one interior landscaped area for each ~~20~~50 parking spaces provided or fraction thereof.

(12) The application of the above standards may be adjusted, in part or in whole, to allow credit for healthy plant material to be retained on or adjacent to the site if such an adjustment is consistent with the intent of this article.

(~~sr~~) Maintenance. It shall be the responsibility of the owner and occupant of the property to maintain all parking and access facilities in a safe and usable condition. This includes, among other things, patching, sealing and replenishing paving; repainting space markings; repairing or replacing curbing or wheel stops and cleaning on-site drainage facilities. It shall also be the responsibility of the owner and occupant to maintain required landscape in neat, clean, orderly and healthful condition. This includes, among other things, pruning, mowing, weeding, litter removal, replacement of dead or diseased plants, repair or replacement of broken or damaged walls, and the regular feeding and water of plant materials.

CHAPTER 1129
Landscaping, Screening and Planting

1129.02 Performance standards.

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~~1129.2218 Installation and maintenance.~~

1129.01 PURPOSE.

These regulations are intended to:

- (a) Minimize the transmission from one land use to another of nuisances associated with noise, dust and glare.
- (b) Minimize visual pollution that may otherwise occur within an urbanized area. Minimal screening provides an impression of separation of spaces, and more extensive screening can entirely shield the visual effects of an intense land use from a less intense land use.
- (c) Establish a greater sense of privacy from visual or physical intrusion of intense land uses, the degree of privacy varying with the intensity of the screening.
- (d) Safeguard the public health, safety and general welfare, preserve the aesthetic and environmental qualities, and enhance the community character.

1129.02 PERFORMANCE STANDARDS.

Every development shall provide sufficient screening so that:

- (a) Neighboring properties are shielded from adverse external effects of that development, regardless of whether it is separated by a right-of-way.
- (b) It provides a transition zone between dissimilar land uses.

1129.03 SCOPE.

- (a) Except where more stringent standards or procedures are specified in this Ordinance, the standards and procedures in this chapter shall apply to all required screening and buffering areas.
- (b) ~~For those zoning districts listed in the screening table in Section 1129.07 and those specific districts listed in this chapter,~~ For all commercial, industrial, office, institutional and multiple-family uses in Commercial and Mixed Use zoning districts and for non-residential uses in Residential districts there shall be provided and maintained on the sides of the property abutting, adjacent to, or across the street from a residential district a screening/buffer zone as specified in this chapter, unless otherwise waived or reduced by the Commission or official approving the site plan.
- (c) For utility buildings, stations and/or substations, screening shall be provided consisting of a six-foot high wall, berm or fence, except when all equipment is contained within a building or structure which is comparable in appearance to residential buildings in the surrounding area.

1129.04 PLAN SUBMISSION REQUIREMENTS.

Whenever landscape, screening and/or a buffer zone are required in this chapter, a preliminary landscape/screening plan shall be submitted to the Zoning Officer and a final plan approved by the Commission or other official approving the site plan. The plan shall be prepared by a landscape architect and sealed by an architect, landscape architect or engineer, and shall contain the following:

- (a) All applicable information required by this Ordinance for site plan review.
~~3) All applicable information listed in this chapter pertaining to plant materials.~~
- (b) The location, general size, and type of existing vegetation to be retained.
- (c) Existing and proposed grades.
- (d) A planting schedule and plan providing the following information:
- (1) The botanical and common name of each plant used.
 - (2) The size of each plant to be used at the time of planting.
 - (3) The quantity of each plant to be used.
 - (4) Whether plants to be used are balled and burlapped, container grown or bare root.
 - (5) The spacing and location of all proposed trees, shrubs, and ground cover.
- Ground cover is defined as low-growing woody shrubs, deciduous or evergreen plants, perennial plants and/or vines, such as low blueberry (*Vaccinium vacillans*), bearberry (*Arctostaphylos uva-ursi*), Northern bayberry (*Myrica pensylvanica*), cotoneaster (*Cotoneaster horizontalis*), or blue rug juniper (*Juniperus horizontalis* 'Wiltoni'). Grass and shredded bark, wood chips, other similar mulch or landscaping stones are also acceptable as ground cover for greenbelt areas.
- (e) The percentage of landscaped area, excluding detention ponds, to be provided on site.

1129.05 STANDARDS.

- (a) The ~~table in Section 1129.07 standards~~ and explanation contained in this chapter establish the screening requirements which satisfy the general performance standards set forth in Section 1129.02, unless modifications as permitted under Section 1129.087 are applicable.
~~The table in Section 1129.07 indicates the type of screening that is required between two zoning~~

districts. Where such screening is required, only one of the two adjoining zoning districts is responsible for installing the screening, as provided in subsection (c) of this section.

~~(b) To determine if the zoning district being developed is required to install the screening and which type of screening is required, find the zoning district being developed and follow that column down the page to its intersection with the row which corresponds to the adjacent zoning district. If the intersecting square contains a letter, the zoning district being developed is responsible for installing that level of screening. If the intersecting square does not contain a letter, no screening improvement is required.~~

1129.06 SCREENING REQUIREMENT.

(a) Plant Material Requirements

- (1) Deciduous or evergreen shrubs used in a landscape screen shall be at least two feet high at initial planting and shall be expected and permitted to grow to a height of at least three feet within two years of planting; such materials shall be expected and permitted to grow to a height of five feet.
- (2) At initial planting, deciduous trees shall be a minimum of two and one-half inch caliper, ornamental trees a minimum of two inch caliper and evergreen trees a minimum of five feet in height.
- (3) The required height of a landscape screen may be reduced where it is determined by the Village Engineer and/or Zoning Officer that such landscaping would interfere with traffic safety and visibility.
- (4) The required height of a landscape screen may be increased where significant changes in elevations between an adjacent property or public right-of-way make it necessary to comply with the intent of this Ordinance.
- (5) The selected combination of plant materials shall be a harmonious combination of living deciduous and evergreen trees, shrubs and vines irregularly spaced to provide an effective year-round screen and to present an aesthetically pleasing view, and all quantities shall be based on the on a landscape plan that has been submitted and approved by the Planning Commission.

~~(a) Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~(1) "Buffer" means an area along and away from a property line within which no structures, driveways, parking, signs or other such uses or structures may be located unless specifically permitted in this chapter.~~

~~(2) "Intermittent visual obstruction" means a screen having no completely unobscured openings within two years of planting more than 10 feet wide at a specified height. In other words, tree canopies shall have grown together within two years of planting to a point that the widest opening between such canopies at a specified height shall not exceed 10 feet. The screen may include deciduous plants and trees. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation~~

of existing vegetation.

a. ~~“Opaque screen” means an opaque screen excluding all visual contact between zoning districts and creating spatial separation. The opaque screen may be composed of a wall, fence or earthen berm, and shall be supplemented with planted and existing vegetation.~~

5) ~~Types of Screening.~~ The following types of screening are established and are used as the basis for the table of screening requirements in Section 1129.07. Whenever screening is required, the screening along a street shall be type C, with the provision that signs and access driveways are permitted in the buffer area, as otherwise permitted by this Ordinance:

a. ~~Type A.~~

i. ~~Opaque screen height: at least six feet;~~

ii. ~~Intermittent visual obstruction height: at least 20 feet, measured from the ground; and~~

iii. ~~Buffer width: at least 30 feet.~~

b. ~~Type B.~~

i. ~~Opaque screen height: at least six feet;~~

ii. ~~Intermittent visual obstruction height: at least 20 feet, measured from the ground; and~~

iii. ~~Buffer width: at least 20 feet.~~

c. ~~Type C.~~

i. ~~Opaque screen height: none;~~

ii. ~~Intermittent visual obstruction height: at least 20 feet, measured from the ground; and~~

iii. ~~Buffer width: at least 10 feet.~~

(b) Screening of Service Areas.

(1) For commercial, industrial, office, institutional and multiple-family uses, all service areas, loading and unloading activities shall be screened on those portions of the lot which abut a residential use. Districts where residences are a permitted use. Screening shall consist of walls, landscaped earthen mounds, fences, natural vegetation or an acceptable combination of these elements, provided that screening must be at least six (6) feet in height.

(2) Natural vegetation screening shall have a minimum opaqueness of seventy-five percent (75%) during full foliage. The use of year-round vegetation, such as pines or evergreens, is encouraged. Vegetation shall be planted no closer than three (3) feet to any property line.

(c) Screening of Trash Receptacles.

(1) For commercial, industrial, office, institutional, and multiple-family uses, all trash and garbage container systems shall be screened or enclosed by walls, fences, or natural vegetation to screen them from view. Container systems shall not be located in front yards, and shall conform to the side and rear yard pavement setbacks in the applicable zoning District. The height of such screening shall be at least six (6) feet in height.

(2) Natural vegetation shall have a ~~maximum~~ minimum opaqueness of seventy-five percent (75%) at full foliage. The use of year-round vegetation, such as pines and evergreens, is encouraged.

(d) Buffering and Screening Requirements.

(1) For commercial, industrial, office and institutional uses which abut an existing residential use, a buffer zone with a minimum width of five (5) feet should be created. Such screening within the buffer zone shall consist of fencing, natural vegetation or a combination of both.

Vegetation shall be planted no closer than three (3) feet to any property line. Natural vegetation shall have a minimum opaqueness of seventy-five percent (75%) during full foliage and shall be a variety which will attain at a minimum ten (10) feet in height within five (5) years of planting.

(e). Perimeter Parking Landscaping

(1) Landscaping within the perimeter setbacks of all parking lots shall be in conformance with the standards established by Chapter 1125.

~~1129.07 TABLE OF SCREENING REQUIREMENTS.~~

~~The following table of screening requirements shall be used for the purposes of this chapter, with the abbreviations in the matrix relating to the zoning districts in this chapter, and with the screening designations A, B and C explained in Section 1129.06, above:~~

~~SCREENING REQUIREMENTS~~

	Zoning District Being Developed*					
	R-1	R-2	C	MU	PI	CR
R-1	B	B	C	A	C	
R-2	B	B	C	A	C	
C				B		
MU						
PI				B		
CR	B	B	B	B	B	

Notes:

~~* Where property is being developed for use primarily as single family residential dwelling units, no screening shall be required under this section.~~

~~1129.087 MODIFICATION OF SCREENING AND BUFFER ZONE REQUIREMENTS.~~

Because of the wide variety of land uses and the relationships between them and because of many different circumstances, the Commission may reduce or waive the screening and buffer zone requirements of this chapter after a detailed review and evaluation of an alternative screening plan. Whenever the Commission modifies the screening requirement, it shall find that the following standards have been met:

(a) The landscape/screening plan shall protect the character of new and existing residential neighborhoods against negative impacts such as noise, glare, light, air pollution, trash and debris, and hazardous activities.

(b) The Commission shall determine the screening, width and type of buffer zone needed to ensure compatibility based upon the following criteria:

(1) The development is compatible with and sensitive to the immediate environment of the site and neighborhood relative to architectural design, scale, bulk, building height, identified historical character, disposition and orientation of buildings on the lot and visual integrity.

(2) The site has natural existing vegetation and/or topography, natural bodies of

water or wetland areas or other existing conditions which offer screening consistent with the standards set forth in this chapter. The Commission shall require the retention of these natural features as a condition of site plan approval.

(3) The arrangement, design and orientation of buildings on this site lends itself so as to maximize the opportunity for privacy and isolation from negative impacts of this project.

1129.098 MATERIALS.

Fences shall be constructed out of any of the following materials: redwood, cedar, or No. 1 pressure treated wood, recycled lumber or vinyl closely resembling wood, wrought iron or aluminum closely resembling wrought iron, stone, brick, concrete with stone or brick veneer, or pre-cast concrete simulated stone or brick. All other materials including but not limited to chain link, vinyl clad chain link, woven wire or plastic mesh (with or without wooden slats) are prohibited as buffer material unless otherwise and expressly permitted in the Ordinance by the Planning Commission.

1129.109 BERMS.

(a) Earthen berms required under this chapter shall consist of raised earth with side slopes of three-to-one or flatter with a four-foot wide flat or slightly rounded crest contoured to the side slopes to facilitate maintenance.

(b) Berms shall be covered with grass or other ground cover to prevent erosion. Berms shall also be landscaped with plant materials. A detailed landscape plan with a plant material list, including quantity, species, minimum size and spacing, shall be submitted with the site plan and approved by the Commission.

1129.110 LOCATION OF SCREENING.

Screening required under this chapter shall be located directly adjacent to the lot line except where underground utilities interfere. ~~Upon approval of the Commission and when mutually agreeable to affected property owners, required screening may be located on the opposite side of an alley right-of-way when a nonresidential district abuts a residential district. The continuity of the required screening on a given block shall be a major consideration of the Commission in reviewing such request.~~

1129.121 OPENINGS IN WALLS, FENCES, AND BERMS; CONSTRUCTION STANDARDS FOR WALLS.

Walls, fences and berms required under this chapter shall have no openings for vehicular traffic or other purposes, except such openings as may be approved by the Commission. All walls required in this chapter shall be constructed of stone, brick or shall have brick veneer on the side facing the residential district. The height of the wall shall be measured from the prevailing grade of the land on the residential side of the wall or berm. Walls shall be erected on a concrete foundation which shall have a minimum depth of 42 inches below a grade approved by the Zoning Officer, and shall not be less than four inches wider than the wall to be erected.

1129.123 BUMPER STOPS, CURBING OR WHEEL CHOCKS IN PARKING SPACES.

Bumper stops, curbing or wheel chocks shall be provided in parking spaces adjacent to a wall, fence or berm required under this chapter to prevent a vehicle from encroaching on or damaging the screening improvement. Bumper stops, curbing or wheel chocks shall be placed four feet from the required screening improvement.

1129.1413 CORNER CLEARANCE VISIBILITY.

The Zoning Officer may require a reduction in the height of a screening improvement where necessary to ensure adequate sight distance and/or corner clearance visibility for drive approaches and public streets in proximity to a screening improvement. In this case height may be reduced only for that portion of the screening improvement necessary to provide adequate sight distance and/or corner clearance necessary for traffic safety. Where it is necessary to reduce the height of a screening improvement, height shall be reduced gradually.

1129.154 IRRIGATION OF VEGETATION.

Whenever a site plan requires landscaped earth berms or planted or natural vegetation screening, such areas shall be provided with an irrigation system or a readily available and acceptable water supply as approved by the Zoning Officer.

~~1129.16 PERFORMANCE GUARANTEE.~~

~~Whenever a site plan requires screening and/or landscaping, the applicant shall deposit with the Village a cash or corporate surety bond or irrevocable bank letter of credit in the full amount of such improvement, as determined by the Village, for the faithful completion of such improvement. When such screening improvement and/or landscaping requires landscaped earth berms or planted or natural vegetation screening, such bond shall continue for two years following the completion and inspection of all planting to ensure that all unhealthy and dead plant material shall be replaced, and the bond shall be released only after there has been a site inspection and a determination made that the screening has been planted as planned. The applicant shall provide a cost estimate on the site plan indicating the full amount of such improvement.~~

1129.175 WAIVER OF REQUIREMENTS.

The Commission or official approving the site plan may waive or reduce the requirements of this chapter upon determining that the following would apply:

- (a) The purpose of this chapter cannot be met; and
- (b) Compliance with the requirements would impose a practical difficulty on the applicant or would create safety hazards to pedestrians or motorists.

1129.186 SCOPE OF PLANT MATERIAL REQUIREMENTS.

Wherever in this chapter screening, planting and/or material in conjunction with an obscuring fence is required, it shall be planted within six months from the date of

issuance of a temporary certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. The location, type and quantity of the -proposed landscape materials shall be installed in compliance with the landscape plan approved by the Commission or the official approving the site plan. Suitable materials equal in characteristics to the plant materials listed in this chapter with the spacing as required in this chapter shall be provided.

~~1129.19 PLANT MATERIAL SPACING.~~

~~Spacing of plant materials required under this chapter shall be as follows:~~

- ~~(a) Trees and large shrubs shall not be placed closer than four feet from the fence line or property line.~~
- ~~(b) Where plant materials are planted in two or more rows, planting shall be staggered in rows.~~
- ~~(c) Evergreen trees, as defined in Section 1129.20, shall be planted not more than 30 feet on centers.~~
- ~~(d) Narrow evergreens, as defined in Section 1129.20, shall be planted not more than three feet on centers.~~
- ~~(e) Deciduous trees shall be planted not more than 30 feet on centers.~~
- ~~(f) Tree like shrubs shall be planted not more than ten feet on centers.~~
- ~~(g) Large deciduous shrubs shall be planted not more than four feet on centers.~~

~~1129.20 SUGGESTED PLANT MATERIALS.~~

~~Suggested plant materials to be used pursuant to this chapter shall be as follows:~~

- ~~(a) Large deciduous shrubs (minimum 24 inches in height at planting, minimum mature height of four feet):~~
 - ~~(1) Gray dogwood (*Cornus racemosa*).~~
 - ~~(2) Red osier dogwood (*Cornus stolonifera*).~~
 - ~~(3) Arrowwood viburnum (*Viburnum dentatum*).~~
 - ~~(4) Nannyberry viburnum (*Viburnum lentago*).~~
 - ~~(5) Maple leaved viburnum (*Viburnum acerifolium*).~~
 - ~~(6) Native spicebush (*Lindera benzoin*).~~
 - ~~(7) Winterberry holly—females and males (*Ilex verticillata*).~~
 - ~~(8) Witch hazel (*Hamamelis virginiana*).~~
 - ~~(9) Elderberry (*Sambucus canadensis*).~~
 - ~~(10) Summersweet (*Clethra alnifolia*).~~
 - ~~(11) Serviceberry (*Amelanchier arborea* & *A. laevis*).~~
 - ~~(12) Sargent crabapple (*Malus ‘Sargent’*).~~
 - ~~(13) Lilac (*Syringa spp.*).~~
 - ~~(14) Spirea (*Spiraea spp.*).~~
 - ~~(15) Winged euonymous (*Euonymus alatus*).~~
- ~~(b) Evergreen trees (minimum five feet in height at planting):~~
 - ~~(1) Norway spruce (*Picea avies*).~~
 - ~~(2) Blue spruce (*Picea pungens*).~~
 - ~~(3) White spruce (*Picea glauca*).~~

- ~~(4) White pine (*Pinus strobes*).~~
- ~~(5) Austrian pine (*Pinus nigra*).~~
- ~~(6) Concolor fir (*Abies concolor*).~~
- ~~(e) Narrow evergreens (minimum three feet in height at planting, minimum mature height of six feet):~~
 - ~~(1) Cap yew (*Taxus cuspidate* 'Capitata').~~
 - ~~(2) Hick's yew (*Taxus x media* 'Hicksii').~~
 - ~~(3) Hatfield yew (*Taxus x media* 'Hatfield').~~
 - ~~(4) Chinese juniper (*Juniperus chinensis*).~~
 - ~~(5) Eastern reedcedar (*Juniperus virginiana*).~~
- ~~(d) Small trees (minimum 1 ½ inch caliper at planting, maturing to less than 30 feet):~~
 - ~~(1) Flowering crab (*Malus spp*).~~
 - ~~(2) Chinese dogwood (*Cornus kousa*).~~
 - ~~(3) Serviceberry (*Amelanchier canadensis*).~~
 - ~~(4) Hop hornbeam (*Ostrya virginiana*).~~
 - ~~(5) Redbud (*Cercis canadensis*).~~
- ~~(e) Medium deciduous trees (minimum two inch caliper at planting, minimum nature height 30 feet):~~
 - ~~(1) Black gum (*Nyssa sylvatica*).~~
 - ~~(2) Sweet gum (*Liquidambar styraciflua*).~~
 - ~~(3) Sargent cherry (*Prunus sargentii*).~~
 - ~~(4) American holly (*Ilex opaca*).~~
 - ~~(5) American hornbeam (*Caprinus caroliniana*).~~
 - ~~(6) Sassafras (*Sassafras albidum*).~~
- ~~(f) Large deciduous trees (minimum three inch caliper at planting):~~
 - ~~(1) Red maple (*Acer rubrum*).~~
 - ~~(2) Sugar maple (*Acer saccharum*).~~
 - ~~(3) River birch (*Betula nigra*).~~
 - ~~(4) Tuliptree (*Liriodendron tulipifera*).~~
 - ~~(5) Honey locust (*Gleditsia triancanthos*).~~
 - ~~(6) Black cherry (*Prunus serotina*).~~
 - ~~(7) Ginkgo—male only (*Ginkgo biloba*).~~
 - ~~(8) Linden (*Tilia americana*).~~
 - ~~(9) American beech (*Fagus grandifolia*).~~
 - ~~(10) Shagbark Hickory (*Carya ovata*).~~

1129.1721 PLANT MATERIALS NOT PERMITTED.

For the purposes of this chapter, the following plant materials shall not be permitted:

- (a) Ailanthus (tree of heaven) (*Ailanthus altissima*).
- (b) Ash (*Fraxinus spp*).
- (c) Asian bittersweet (*Celastrus orbiculata*).
- (d) Box elder (*Acer negundo*).
- (e) Buckthorn (*Rhamnus spp*).
- (f) Elm (*Ulmus spp*).
- (g) Hedge privet (*Ligustrum*).
- (h) Japanese knotweed (*Polygonum cuspidatum*).

- (i) Multiflora rose (*Rosa multiflora*).
- (j) Norway maple (*Acer phatanoides*).
- (k) Honeysuckle (*Lonicera spp*).
- (l) Olive - Autumn and Russian (*Elaeagnus spp*).
- (m) Poplar (*Populus spp*).
- (n) Soft maple (*Acer saccharinum*).
- (o) Purple loosestrife (*Lythrum salicaria*).

1129.18 1129.22 INSTALLATION AND MAINTENANCE.

- (a) (a) Whenever a landscape planting screen or other plantings are required under this chapter, such plantings shall be installed according to accepted good planting procedures and in a sound workmanlike manner. All plant material shall meet current standards of the American Association of Nurserymen. Landscaping shall be installed prior to the issuance of a final occupancy permit.
- (b) All landscaped areas shall be provided with an irrigation system or a readily available and acceptable water supply, as approved by the Zoning Officer.
- (c) Three-inch overall depth of shredded, non-colored hardwood Cedar or Cypress bark or ground cover, as defined in Section 1129.04(e)(5), (d)(5), shredded bark, wood chips, other similar mulch or landscaping stones shall be used in all planting beds. The minimum mulch radius shall be two feet surrounding a shrub and four feet surrounding a deciduous or evergreen tree. Deviations from this must be approved by the Zoning Officer before installation.
- (d) All required landscape screening and planting shall be continuously maintained. Maintenance of plantings shall be done to ensure a healthy and neat appearance, free of disease and insect infestations as well as clear of weeds and debris. Unhealthy or dead plant material is to be replaced within one year from completion and inspection of plantings.

CHAPTER 1133
Signage

- 1133.01 Purpose.**
- 1133.02 Scope of requirements.**
- 1133.03 Enforcement.**
- 1133.04 Computation and measurements.**
- 1133.05 Signs for residential uses and signs in residential districts.**
- 1133.06 Signs in the C, MU, PI, and CR Districts.**
- 1133.07 Prohibited signs.**
- 1133.08 Illumination, construction and maintenance standards.**
- 1133.09 Nonconforming signs.**
- 1133.10 Design standards.**

1133.01 PURPOSE.

The purpose of this chapter is to promote the public health, safety and general welfare through the provisions of standards for existing and proposed signs of all types. More specifically, this chapter is intended to:

- (a) Enhance and protect the physical appearance of the community.
- (b) Promote and maintain visually attractive residential, retail, commercial and mixed use districts.
- (c) Ensure that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain safe and orderly pedestrian and vehicular environments.
- (d) Provide review procedures that enable the Village to evaluate the appropriateness of a sign to the site, building and surroundings.

1133.02 SCOPE OF REQUIREMENTS.

It shall be unlawful for any person, firm or corporation to erect, construct, or alter any sign in the Village except in conformance with the provisions of this Ordinance, subject to issuance of a permit, unless specifically exempted below. All temporary ground signs and banner signs ~~except ideological signs~~ shall be registered with the Zoning Officer.

1133.03 ENFORCEMENT.

- (a) Plans, Specifications, and Permits.
 - (1) Permits. It shall be unlawful for any person to erect, alter, relocate or structurally change a sign or other advertising structure, unless specifically exempted by this Ordinance, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, as noted on a fee schedule as may be established, adopted and amended from time to time by the Council.
 - (2) Applications. Application for a sign permit shall be made upon forms provided by the Zoning Officer. The following information shall be required:
 - A. Name, address and telephone number of the applicant.
 - B. Location of the building, structure or lot on which the sign is to be attached or erected.

C. Position of the sign in relation to nearby buildings, structures and property lines. The Zoning Officer may require information to be provided for on a certified survey or drawing sealed by a registered engineer.

D. Plans showing the dimensions, materials, method of construction and attachment to the building or in the ground.

E. Copies of stress sheets and calculations, if deemed necessary, showing the structure as designed for dead load and wind pressure.

F. Name and address of the person, firm or corporation owning, erecting, and maintaining the sign.

G. Information concerning required electrical connections.

H. Insurance policy or bond, as required in this Ordinance.

I. Written consent of the owner or lessee of the premises upon which the sign is to be erected.

J. Other information as required by the Zoning Officer to make the determination that the sign is in compliance with all applicable laws and regulations.

(3) Review of application.

A. Commission review. Sign permit applications submitted in conjunction with the proposed construction of a new building or addition to an existing building shall be reviewed by the Commission as a part of the required site plan review. Proposed sign locations and dimensions must be shown on the site plan.

B. Issuance of a permit. Following review and approval of a sign application by the Commission and Zoning Officer, as appropriate, the Zoning Officer shall have the authority to issue a sign permit.

(4) Exceptions. A sign shall not be enlarged or relocated except in conformity with the provisions set forth herein for new signs, nor until a proper permit has been secured. However, a new permit shall not be required for ordinary servicing or repainting of an existing sign, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee or numbers on a gasoline price sign). Furthermore, a permit shall not be required for signplates for residential uses, temporary signs for dwelling units, and temporary windows signs, provided that all applicable regulations of this chapter are complied with.

(b) Inspection and Maintenance.

(1) Inspection of new signs. All signs for which a permit has been issued shall be inspected by the Zoning Officer when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable Zoning Ordinance and Building Code standards. In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the Zoning Officer when such fastenings are to be installed so that inspection may be completed before enclosure.

(2) Inspection of existing signs. The Zoning Officer shall have the authority to routinely enter onto property to inspect existing signs. In conducting such inspections, the Zoning Officer shall determine whether the sign is adequately supported, painting to prevent corrosion, and so secured to the building or other support to safely bear the weight of the sign and pressure created by the wind.

(3) Correction of defects. If the Zoning Officer finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the sign erector, owner of the sign, or owner of the land shall make the sign safe and secure by completing any necessary reconstruction or repairs, or entirely remove the sign in accordance with the timetable established by the Zoning Officer.

(c) Removal of Obsolete Signs. Any sign that no longer identifies a business that is in operation, or that identifies an activity or event that has already occurred, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business. However, where a conforming sign structure and frame are typically reused by a current occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in good condition.

(d) Nonconforming Signs. No nonconforming sign shall be altered or reconstructed, unless the alteration or reconstruction is in compliance with this Ordinance, except that nonconforming signs shall comply with the following regulations:

(1) Repairs and maintenance. Normal maintenance shall be permitted, provided that any nonconforming sign that is destroyed by any means to an extent greater than 50 percent of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels; or, repair or replacement of electrical wiring or electrical devices.

(2) Nonconforming changeable copy signs. The message on a nonconforming changeable copy sign or nonconforming bulletin board sign may be changed provided that the change does not create any greater nonconformity.

(3) Substitution. No nonconforming sign shall be replaced with another nonconforming sign.

(4) Modifications to the principal building. Whenever the principal building on a site on which a nonconforming sign is located is modified to the extent that site plan review and approval is required, the nonconforming sign shall be removed.

(e) Appeal to the Board. Any party who has been refused a sign permit for a proposed sign may file an appeal with the Board, in accordance with the provisions of this Ordinance. In determining whether a variance is appropriate, the Board shall, in addition to other review criteria specified in this Ordinance, study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify granting a variance; however, the Board may decline to grant a variance even if certain of the following circumstances are present:

(1) Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees or other obstructions.

(2) Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the Board shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.

(3) Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the subject parcel.

(4) Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.

(5) Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.

(6) Variances from certain sign regulations would be offset by increased building setback, increased landscaping, or other such enhancements, so that the net effect is an improvement in appearance of the parcel, compared to the result that would be otherwise achieved with construction of a conforming sign.

(7) A sign which exceeds the permitted height or area standards of this Ordinance would be more appropriate in scale because of the large size or frontage of the parcel or building.

1133.04 COMPUTATION AND MEASUREMENTS.

The following regulations shall control the computation and measurement of sign area, sign height, window area and building frontage:

(a) Determining Sign Area or Dimension.

(1) Sign area shall include the face of all the display area of the sign. Sign area shall not include the frame and structural support unless such structural support is determined to constitute an integral part of the sign design.

(2) For a sign that is framed, outlined, painted or otherwise prepared and intended to provide a background for a sign display, the area of the sign shall be the area of one rectangular shape that encompasses the entire background or frame.

(3) For a sign comprised of individual letters, figures or elements on a wall or similar surface of a building or structure, an irregular shaped ground sign, the area of the sign shall be the area of one rectangular shape that encompasses the perimeter of all the elements in the display.

A. When separate elements are organized to form a single sign, but the elements are separated by open space, the area shall be the area of one rectangular shape that comprises all the display areas, including the space between the elements.

B. One minor extension may be permitted to extend above or below the sign area when the area of the extension is less than 25 percent of the open space included in the sign area. For the purposes of this chapter, only the open space within the sign area that is located above and below the majority of the letters shall be included in the calculation.

C. For ground signs and projecting signs, the sign area shall be computed by the measurement of one of the faces when two identical display faces are joined, are parallel or within 30 degrees of being parallel to each other.

D. Air under a ground sign between supporting posts, air between a projecting sign and the wall to which it is attached, and lighting fixtures and associated brackets shall not be included in the calculation of sign area.

(b) Determining Sign Height. The height of a sign shall be measured from the average grade at the base of the sign or support structure to the tallest element of the calculated sign area or support structure. A ground sign on a man-made base, including a graded earth mound, shall be measured from the average site grade prior to the addition of the sign.

(c) Determining Building Frontage and Building Unit. For the purposes of these sign regulations, the length of the building wall that faces a public street or that contains a public entrance to the uses therein shall be considered the building frontage:

(1) The building frontage shall be measured along such building wall between the exterior faces of the exterior side walls.

(2) In the case of an irregular wall surface, a single straight line extended along such wall surface shall be used to measure the length.

(3) A building shall have only one building frontage except as otherwise set forth below.

(4) A building shall have two frontages whenever the lot fronts on two or more streets, or the building has a public entrance on a wall other than the wall that faces the street. The property owner shall determine which wall shall be the primary building frontage and which wall shall be the secondary building frontage. Only one outside wall of any business shall be considered its primary frontage and only one additional wall considered its secondary frontage.

(5) For multi-occupant buildings, the portion of a building that is owned or leased by a single occupant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

(d) Determining Window Area. The window area of a building shall be the total glass area of windows on the building frontage. For the purposes of determining window area for ground floor occupants, the ground floor shall be considered to be no more than 15 feet in height above grade.

1133.05 SIGNS FOR RESIDENTIAL USES AND SIGNS IN RESIDENTIAL DISTRICTS.

(a) Table I Permitted Signs.

	USES			
	SINGLE FAMILY	TWO FAMILY OR THREE FAMILY DWELLING, TOWNHOUSES, STACKED FLATS	MULTIPLE FAMILY DEVELOPMENTS	NON-RESIDENTIAL
Permanent Signs				
Sign Plate-wall, window or ground				
Maximum number	1/dwelling unit	1/dwelling unit	1/dwelling unit	1/building
Maximum sign area	2 square feet	2 square feet	2 square feet	4 square feet
Ground Sign for Use/Development				
Maximum number	1/entrance	1/entrance	1/entrance	1
Maximum total sign area	32 square feet	32 square feet	32 square feet	32 square feet
Maximum height	5 feet	5 feet	8 feet	8 feet
Minimum setback from right-of-way	25 feet	25 feet	25 feet	25 feet
Wall Sign				
Maximum number	n.a.	n.a.	n.a. 1/Development	1
Maximum area	n.a.	n.a.	n.a. 32 square feet.	32 square feet
Temporary Signs				
Window Sign or Ground Sign				
Maximum total sign area	12 square feet/dwelling unit	12 square feet/dwelling unit	<u>Window Sign:</u> 12 square feet/dwelling unit <u>Ground Sign:</u> 32 square feet. 1/Development	32 square feet
Maximum height - ground	5 feet	5 feet	5 8 feet	8 feet

Minimum distance from right-of-way	0 feet	0 feet	0 25 feet	25 feet
Banner				
Maximum number	n.a.	n.a.	1	1
Maximum area	n.a.	n.a.	30 square feet	30 square feet
Maximum height	n.a.	n.a.	8 feet	8 feet
Minimum distance from right-of-way	n.a.	n.a.	25 feet	25 feet
Sandwich Board Sign				
Maximum total sign area	1,440 sq. inches	1,440 sq. inches	1,440 sq. inches	1,440 sq. inches
Maximum height - ground	30 x 48 inches	30 x 48 inches	30 x 48 inches	30 x 48 inches
Minimum distance from road	8 feet	8 feet	8 feet	8 feet
Instructional Signs				
Maximum number/entrances	n.a.	n.a.	2	2
Maximum area each sign	n.a.	n.a.	4 square feet	4 square feet
Minimum distance from right-of-way	n.a.	n.a.	0 feet	0 feet

(Ord. 2005-0711-03. Passed 7-11-05; Ord. 41-2011. Passed 12-12-11.)

(b) Supplementary Regulations for Ground Signs.

(1) Ground signs that exceed four square feet in area shall be erected with a minimum of two supporting posts or on a solid base.

(2) Ground signs shall be erected in a landscaped setting.

(3) No part of a ground sign, the wall or entry feature on which a sign is mounted, or the landscaping shall obstruct the view of vehicles entering or exiting the property.

(4) For residential subdivisions, the ground sign shall have a maximum of two sign faces per entrance, and be either a double-faced ground sign or two single-sided sign faces attached to walls or entry features located one on each side of the street entrance.

(5) For nonresidential uses a maximum of 30 percent of the permitted ground sign area may be devoted to changeable copy.

(6) Nonresidential use ground signs shall contain the street address in numerals not exceeding seven inches in height.

(c) Supplementary Regulations for Temporary Signs.

(1) Temporary signs on property used for residential purposes and temporary window signs on property used for non-residential purposes may be erected for an unspecified time.

(2) For property used for nonresidential purposes, one temporary ground sign that does not exceed six square feet may be erected for an unspecified time. All other temporary ground signs and temporary banner signs shall be permitted for a maximum of 15 consecutive days, not more than 75 days per ~~calendar~~calendar year.

(3) Vacant parcels in residential districts shall be permitted one temporary sign. The maximum permitted sign area shall be not more than four square feet for every 200 feet of lot frontage or fraction thereof, provided the sign shall not exceed 16 square feet.

(4) Temporary signs that are erected in order to announce or advertise a specific event shall be removed within seven days after the close of such event.

(d) Illumination. Permanent signs may be illuminated as provided in Section 1133.08.

(e) Instructional Signs. Instructional signs that are clearly intended for instructional purposes shall be permitted as needed on a lot in a residential district when the lot is devoted to multi-family or non-residential use.

(f) Sandwich Board Signs.

(1) A Sandwich Board sign is defined as: a pyramidal, two-panel, temporary sign, which is placed on the ground providing information for businesses, organizations or special events.

(2) Sandwich Board signs shall measure no more than 1,440 square inches; so as not to exceed measurements of 30 x 48 inches, as displayed, either horizontally or vertically.

(3) One Sandwich Board sign shall be permitted per business. Sandwich Board signs shall be placed on the site of the business location only. Sandwich Board signs may be displayed during business hours only. Sandwich Board signs shall be removed and secured within their respective places of business during non-business hours.

(4) Sandwich Board signs shall be placed a minimum of eight feet from the outside edge of the roadway.

(5) Sandwich Board signs shall not impede or interfere with pedestrian or motorized traffic. Sandwich Board signs shall not be placed on the sidewalk.

(6) In the event that a property owner, business owner, or event organizer, wishes to display more than one Sandwich Board sign(s) for the purpose of advertising a “special event” or for directing traffic to a specific location, the event organizer must apply for a Sandwich Board sign permit. Directional and/or special event Sandwich Board signs shall comply with all Sandwich Board sign regulations. Directional, special event, or additional Sandwich Board sign permits may be obtained from the office of the Mayor or the Clerk of Courts for a charge of five dollars (\$5.00USD). The permit shall contain the name and address of the business applying for the permit as well as a brief, written description of the location where the additional signage is to be displayed. The applicant must obtain signed, written permission from the property owner in the event that the property owner and the applicant are not the same person. Each applicant is limited to no more than two additional signs.

1133.06 SIGNS IN THE C, MU, PI, AND CR DISTRICTS.

Signs for all uses other than residential uses in the C, MU, PI and CR Districts shall comply with the following standards:

(a) Building Signs. The maximum number and area of permanent signs attached to building shall conform to Table 2 below. Building signs include wall signs, window signs, awning or canopy signs and projecting signs.

Table 2.

Type of Signs	Zoning District			
	C	MU	PI	CR
Signplate				
Maximum number per address	1	1	1	1
Maximum area	2 square feet	2 square feet	2 square feet	2 square feet

Building				
Maximum number per occupant	1	1	1	1
Maximum area permitted	1 square foot/lineal foot of lot frontage			
Maximum area per occupant	24 square feet	24 square feet	24 square feet	24 square feet
Projecting Sign				
Maximum number per building	1	1	1	n.a.
Maximum area permitted	12 square feet	12 square feet	12 square feet	n.a.

(b) Window Signs.

(1) Ground floor occupants. A window sign shall not exceed 25 percent of the total glass area at the ground floor window and shall comply with the Design Standards for signs.

(2) Upper floor occupants. For a multi-story building, each occupant above the ground floor shall be permitted one permanent sign to be placed in a window of the occupant's space, not to exceed six square feet or 25 percent of the area of the window in which the sign is placed, whichever is smaller. These signs shall be in addition to the maximum allowable area for the building signs provided in Table 2.

(c) Secondary Frontage or Access. If a building or occupant has frontage on a second street or has access from a second public entrance such as a parking lot an additional sign area may be permitted on the secondary frontage not to exceed 40 percent of the sign area permitted for the primary frontage.

(d) Projecting Signs. Projecting signs shall be permitted only in the C, MU, and PI Districts.

(1) Projecting signs shall be limited to occupants that have a minimum of 20 feet of occupant frontage. All projecting signs shall have a maximum height of 14 feet and a minimum clearance of seven feet from the ground to the bottom of the sign, except when the projecting sign is located above a landscaped area or other area that does not permit pedestrian traffic beneath the sign. A projecting sign shall not be permitted to extend into the street right-of-way.

(e) Ground Signs. Permanent ground signs permitted in the C, MU, PI and CR Districts shall comply with the following regulations in Table 3:

Table 3.

Type of Signs	Zoning Districts			
	C	MU	PI	CR
Ground Signs				
Maximum number per building	1	1	1	n.a.
Maximum area	1 square foot/lineal foot of lot frontage, not to exceed 32 square feet	1 square foot/lineal foot of lot frontage, not to exceed 32 square feet	1 square foot/lineal foot of lot frontage, not to exceed 32 square feet	n.a.
Maximum height	6 feet	8 feet	8 feet	n.a.

Setback from public right-of-way	25 feet	25 feet	25 feet	n.a.
<u>Entrance/Exit-Directional Signs</u>				
Maximum number	2/drive	2/drive	2/drive	2/drive
Maximum area per sign	2 square feet	4 square feet	4 square feet	4 square feet
Instructional Signs	As regulated in Sec. <u>1133.05(a)</u>			

(1) Additional ground signs. An additional ground sign may be permitted on lots not less than four acres in nonresidential districts for a building or development on a corner lot. The additional sign shall not exceed the area as permitted in Table 3.

(2) Setback from intersections. On a corner lot ground signs shall comply with the minimum setback provided in Table 3.

(3) Minimum side yard. Ground signs shall be located not less than 10 feet from a side lot line provided, however, when adjacent to an R-1 or R-2 District or a lot used for residential purposes, a ground sign shall be not less than 20 feet from the side lot line.

(4) Changeable copy. Ground signs may have up to 30 percent of the permanent sign area devoted to changeable copy.

(5) Multi-occupant facilities. When a ground sign is permitted on a site that has more than one occupant, it is the property owner's responsibility to determine if the sign area shall be devoted to identification of the building(s), the anchor occupant, all occupants, or some combination thereof.

(6) Permanent ground signs shall contain the street address in numerals not exceeding seven inches in height.

(7) Ground signs shall be erected in a landscaped setting.

(8) The Zoning Officer may approve the location of a ground sign less than the required distance from a road right-of-way if it finds the sign will not interfere with traffic sign lines and that the required setback is unreasonable because of existing site condition; provided, however, no ground sign or part thereof shall be permitted in the right-of-way.

(f) Temporary Signs. Temporary signs in nonresidential districts may be permitted in addition to the permanent signs as regulated in Section 1133.06(a) through (e) provided:

(1) Temporary signs may be ground signs, window signs or banner signs.

(2) The area of a temporary window sign shall not exceed 25 percent of the total transparent glass area of the window in which the sign is placed.

(3) Temporary ground and temporary banner signs are permitted on in the C, MU, and PI Districts provided:

A. There shall be no more than two temporary or banner signs each not more than 30 square feet; and

B. Each sign shall have a maximum height of six feet above grade; and

C. Each sign shall not be less than 15 feet from a street right-of-way except the Zoning Officer may permit signs less than 15 feet from a street right-of-way in the Commercial District; and

D. Signs shall be permitted for a maximum of 15 consecutive days, and not more than a total of 75 days each calendar year.

(4) Temporary signs that are created in order to announce a specific event shall be removed within seven days after the close of such event.

(g) Illumination. Permanent signs may be illuminated as provided in Section 1133.08 .

(h) Instructional Signs. Instructional signs that are clearly intended for instructional purposes shall be permitted as needed and as approved by the Zoning Officer.

(i) Signs for Residential Uses. Signs permitted or conditionally permitted in the residential districts shall conform to the sign regulations provided in Section 1133.05 .

1133.07 PROHIBITED SIGNS.

All signs not expressly permitted shall be prohibited in the Village. Such signs include but are not limited to the following:

(a) Roof signs.

(b) Billboards.

(c) Flags intended for advertising or commercial purposes-, except “open” flags.

(d) Marquee signs.

(e) Electronic reader boards.

(f) No mobile signs shall be erected, constructed, displayed or maintained except those on licensed commercial delivery and service vehicles. Such vehicles shall not be parked in any district closer to the street than the front line of the principal building, unless the principal building has a rear parking area; in which case, all such vehicles shall not be parked closer to the street than the rear line of said building.

(g) Temporary directional signs.

(h) Flashing, moving, inflatable, blinker, racer type, intermittent, rotating, moving or revolving signs, whirligig devices, inflatable signs and tethered balloons, pennants, ribbons, streamers, spinners, feathered flag banners, exposed light bulbs and strings of lights not permanently mounted on a rigid background, and other types of attention-getting devices.

(i) The interior illumination of signs, except as expressly permitted in Section 1133.08(a) and signs with characters, letters, figures, designs or outlines by electric lights or luminous tubes as part of the sign.

(j) Merchandise, equipment, products, vehicles or other items not themselves for sale and placed for attention getting, identification or advertising purposes.

(k) Permanent signs erected or attached to accessory structures.

(l) Outline lighting on the building or roof line.

(m) Internal illumination of all or part of the roof.

1133.08 ILLUMINATION, CONSTRUCTION AND MAINTENANCE STANDARDS.

In addition to the design, size, type and location of signs, all signs shall meet the following standards:

(a) Illumination. Signs shall be permitted to be illuminated as provided in the following:

(1) External Illumination. All signs that are permitted to be illuminated shall be externally illuminated. External illumination shall comply with the following:

A. Only direct lighting from an external source shall be used to illuminate the sign.

B. The source of light shall not be visible from the street or adjacent property.

(2) Internal illumination. Internal illumination of signs shall not be permitted.

(3) Signs shall not include animated, flashing, moving or intermittent illumination in which any part of the message changes at a rate of more than once per day.

(4) No temporary sign shall be illuminated or have the potential to be illuminated.

(b) Location of Signs and Construction Standards.

(1) No sign regulated by any part of the provisions of this section shall be erected in the right-of-way, or at the intersection of any streets in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with, any authorized traffic sign, signal or device as defined in the Manual of Uniform Traffic Control Devices; or which makes use of the words “STOP”, “LOOK”, “DANGER” or any word, phrase, symbol or character in such a manner as to interfere with, or confuse traffic.

(2) No sign shall be attached to a utility pole, tree, trash receptacle, bench or any other structure not intended or approved as a sign support.

(3) No sign shall be erected so as to project over and obstruct any window, door, fire escape, balcony, platform, stairway, ladder, vent or other means of ingress into a building.

(4) The construction, erection, safety and ~~mainenancemaintenance~~ maintenance of signs shall comply with the Building Code.

(5) Signs shall be structurally sound and located so as to pose no threat to pedestrian or vehicular traffic.

(6) Permanent signs shall be constructed and erected to withstand wind pressures of at least 30 pounds per square foot of surface, and shall be fastened, suspended or supported so that they will not be a menace to person or property.

(7) Permanent signs shall be fabricated on and of materials that are of good quality and good durability.

(8) Temporary signs shall be durable and weather-resistant and fastened or anchored sufficiently, whether attached to the building or positioned in the ground.

(9) No temporary sign shall have moveable lettering or lettering capable of being moved or replaced.

(c) Maintenance. All signs shall be maintained as follows:

(1) The property owner, occupant, or other person responsible for the sign shall maintain the sign in a condition fit for the intended use, and he or she shall have a continuing obligation to comply with all Building Code requirements.

(2) If the Zoning Officer finds that any sign is unsafe, insecure or a menace to the public, notice shall be given in writing by the Zoning Inspector to the owner. The owner of the business shall, within 48 hours of such notification, correct such unsafe condition or remove the sign.

(3) Whenever any sign, either conforming or non-conforming to these regulations, is required to be removed for the purpose of repair, refurbishing or repainting, the same may be done without a permit or any payment of fees provided that all of the following conditions are met:

A. There shall be no alteration or remodeling to the sign face, lettering (except as otherwise permitted for changeable copy), sign base, sign support(s) of the mounting of the sign itself.

B. There shall be no enlargement or increase in any of the dimensions of the sign or its structure.

C. The sign shall be accessory to a legally permitted, conditional or nonconforming use.

(4) The Zoning Officer may order any sign to be painted or refurbished whenever needed to keep the sign in a neat and safe condition.

1133.09 NONCONFORMING SIGNS.

(a) Maintenance of Nonconforming Signs. Nonconforming signs shall be maintained in good condition and may continue until such sign is required to be removed as set forth in this section.

(b) Alteration, Relocation or Replacement of the Nonconforming Signs. A nonconforming sign shall not be structurally altered, relocated or replaced unless it is brought into compliance with the provisions of this chapter.

(c) Reconstruction of Damaged Sign. If a sign face and/or its support are damaged to the extent where the repair cost exceeds 50 percent of the replacement cost of the sign, the sign shall be removed or brought into compliance. If the repair costs do not exceed 50 percent of the replacement cost of the sign, the Zoning Officer may authorize the sign to be repaired, provided all repair work is completed within 60 days of the date the damage was incurred.

(d) Termination. A nonconforming sign shall immediately lose its legal nonconforming status, and shall be brought into conformance with this section or removed, when any of the following occurs:

(1) The size or shape of the sign is changed.

(2) The sign face (except where otherwise permitted for changeable copy) or sign structure is altered.

(3) If the property upon which the sign is located ceases to be used for a period of ~~two years~~ eighteen (18) months or more.

1133.10 DESIGN STANDARDS.

All permanent signs shall comply with the following design standards:

(a) Overall Design of Signs.

(1) Elements of the sign shall create an overall cohesive design, reflect simplicity, avoid visual clutter and insure legibility.

(2) The message shall be easy to read from the intended vantage point, public street, public sidewalk, or public parking lot but not be out of scale with the building, site or streetscape. The ratio of the message to the background shall permit easy recognition of the message. Lettering size shall be the size needed to ensure the sign can be seen from the intended distance. For awning signs, the sign graphics shall be located on a portion of the awning fabric that hangs perpendicular to the horizontal plane of the ground, below the awning's support structures.

(b) Relationship to Building Architecture.

(1) Variety in the design of signs among different storefronts shall be encouraged when the architecture of the building(s) suggests variety.

(2) Storefront with common architectural elements shall have signs that share continuity of design so that the placement and design of individual signs contribute to the cohesive appearance created by the common architectural elements. For example, a series of storefronts that, because of their architecture and design, have the appearance of a single building shall have occupant signs that share common elements.

(c) Placement of Signs on Buildings. All signs shall be reviewed for their impact on the overall building facade. The sign and associated lighting fixtures shall compliment the architecture of the building on which it is placed and shall be placed in an appropriate location on the building facade.

(d) Ground Signs. Ground signs shall be spaced or combined along the street frontage in a manner that ensures that one ground sign does not obscure the view of another ground sign.

CHAPTER 1137
Performance Standards

1137.01 Performance requirements for all uses.

1137.02 Air contaminants.

1137.03 ~~Particulate matter.~~Radioactive Material.

1137.04 ~~Gases as measured at the property line.~~ Fire Hazards.

1137.05 ~~Radioactive material.~~ Noise.

1137.06 ~~Fire hazards.~~ Vibration

1137.07 ~~Noise.~~Erosion

1137.08 ~~Vibration.~~Light.

1137.09 ~~Erosion.~~ Noxious odors; filthy accumulations; polluting and diverting watercourses.

Introduction: This chapter provides standards for all uses permitted by this Ordinance. These standards are intended to apply in addition to all other requirements of this Ordinance. The enforcement of the following standards shall be by the Zoning Officer, and all decisions regarding these standards shall be based upon measurements made by the Zoning Officer.

1137.01 PERFORMANCE REQUIREMENTS FOR ALL USES.

Uses in all districts of the Village shall comply with the standards of performance set forth in this chapter (~~generally accepted methods of collection and standard methods of chemical analysis shall be used in the application of those standards~~). In addition to the requirements listed in this chapter, there shall not be discharged from any source whatsoever such quantities of air contaminants hazardous to persons or the public or which cause injury or damage to business or property.

1137.02 AIR CONTAMINANTS.

~~Air contaminants shall be measured not less than 100 feet and not more than one quarter mile from stack or source. Air contaminants less dark in shade than that designated as No. 2 on the Ringelmann Chart, as published by the U.S. Bureau of Mines, are permitted except that No. 2 is permitted for one four minute period in each one half hour. Air contaminants of such opacity as to obscure observer's view to a degree equal to or greater than described above shall not be permitted except that essentially water vapor effluents in the range of white or cream may be excepted from this rule. No emission of air pollutants shall be permitted which violate the Clean Air Act, as amended from time to time, as enforced by the Ohio Environmental Protection Agency.~~

~~1137.03 PARTICULATE MATTER.~~

~~Particulate matter and dust shall be measured at a convenient measuring point nearest to stack outlet or source. Particulate matter or dust, as measured at and by any generally accepted manner, shall not be emitted in excess of three tenths grain per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit not exceeding 50 percent excess air, except for periods of four minutes in any one half hour, when it can equal but not exceed five tenths grains per cubic foot of flue gas at a temperature of 500 degrees Fahrenheit not exceeding 50 percent excess air.~~

~~1137.04 GASES AS MEASURED AT THE PROPERTY LINE.~~

~~Sulfur dioxide gas shall not exceed an average of three tenths parts per million over a 24 hour period, provided, however, a maximum concentration of five tenths part per million will be allowed for a one hour period out of a 24 hour period; hydrogen sulfide shall not exceed one tenth~~

~~part per million; flourine shall not exceed one tenth part per million; nitrous fumes shall not exceed five parts per million; carbon monoxide shall not exceed 15 parts per million.~~

1137.053 RADIOACTIVE MATERIAL.

Radioactive materials shall not be emitted to exceed quantities established by the United States Bureau of Standards or as amended from time to time.

1137.064 FIRE HAZARDS.

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire-prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved. All standards enforced by the Occupational Safety and Health Administration, and all standards contained in the Building and Fire Codes shall be adhered to.

1137.075 NOISE.

~~Objectionable noise which is due to volume, frequency or heat shall be muffled or otherwise controlled. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.~~

(a) No person shall willfully cause, create, allow or permit to be made within the Village any unreasonably loud, disturbing and unnecessary noise of such character, intensity or duration as to disturb the peace, quiet, and comfort of a reasonable person of normal sensitivity residing in the Village.

(b) The following noises and disturbances are a violation of this section, provided, however, that such noises and disturbances are not to be construed to exclude other violations not specifically enumerated:

(1) The use or operation of any radio, phonograph, musical instrument, or device designed for the production or reproduction of sound in such a manner or with such volume as to disturb the peace, quiet and comfort of any reasonable person of normal sensitivity residing in the Village or with a volume louder than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the device is operated and who are voluntary listeners. The operation of any of the above-named devices between the hours of 11:00 p.m. and 7:00 a.m. or in such a manner that the noise is plainly audible at a distance of fifty (50) feet from the source of the noise will be prima facie evidence of a violation;

(2) The use of any motorcycle or vehicle so out of repair or loaded so as to create loud or unnecessary grating, grinding, rattling or other noise;

(3) The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and containers;

(4) The making of any unnecessary or unseemly noise by a person or by operation of any instrument, device, agency or vehicle, the performance of any construction, demolition or agricultural activity or the operation of any mechanical, electrical, pneumatically, hydraulically powered or battery operated apparatus used in connection with any construction, demolition or agricultural activity between the hours of 9:00 p.m. and 7:00 a.m. from Monday to Saturday, inclusive. No such activity or operation shall be performed on Sundays or holidays;

(5) The creation of any excessive noise on any street adjacent to any school, institution of learning, or church which unreasonably interferes with the operation of such school, institution of learning, or church.

(c) None of the prohibitions set forth in subsections (a) and (b) shall apply to the following:

(1) Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities;

(2) Noise of safety signals and warning devices;

(3) Emergency utility or other repair work, such as restoring electric power lines or a water or sewer main;

(4) Excavation or repair of bridges, streets or highways by or on behalf of the Village, State of Ohio, or Summit County between the hours of 6:00 p.m. and 7:00 a.m. when the public welfare, safety and convenience render it impossible to perform such work during other hours;

(5) Noises from lawfully scheduled sporting events, parades, fireworks, festivals and concerts.

(6) Noises resulting from band concerts or other public entertainments or announcements given consistent with a permit issued by the Village;

(7) Noises resulting from school bells and playground activity;

(8) Construction sounds or sounds associated with agricultural activity occurring between 7:00 a.m. and 9:00 p.m. from Monday to Saturday, inclusive; and

(9) Noises resulting from the reasonable use of machinery or equipment engaged in landscape maintenance during daylight hours.

(d) A noise or disturbance shall be willfully created if, upon notice, the emitter of the noise fails or refuses to cease creation of the noise.

1137.086 VIBRATION.

No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.

1137.097 EROSION.

No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.

1137.08 LIGHT

No exterior lighting shall be shall be positioned so as to extend light or glare onto adjacent properties or rights-of-way.

1137.09 NOXIOUS ODORS; FILTHY ACCUMULATIONS; POLLUTING AND DIVERTING WATERCOURSES.

No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal, which dwelling, building, structure or place, or which activity, by occasioning noxious exhalations or noisome or

offensive smells, becomes injurious to the health, comfort or property of individuals or of the public. No person shall cause or allow offal, filth or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public. No person shall unlawfully obstruct or impede the passage of a navigable river, harbor or collection of water, or corrupt or render unwholesome or impure, a watercourse, stream or water, or unlawfully divert such watercourse from its natural course or state to the injury or prejudice of others.

CHAPTER 1141
Standards for Specific Land Uses

- 1141.01** Individual produce stands and farm markets.
- 1141.02** Veterinary ~~elines~~clinics.
- 1141.03** Farmers' markets.
- 1141.04** Family day-care homes, Type A.
- 1141.05** Bed and breakfast inns.
- 1141.06** Two-family and three-family dwellings.
- 1141.07** Multiple-family ~~dwellings and~~ developments.
- 1141.08** Townhouses and stacked flats.
- 1141.09** ~~Limited business, institutional and historic uses (Repealed).~~ Greenhouses and Nurseries (primary use)
- 1141.10** Catering facilities.
- 1141.11** Massage therapists.
- 1141.12** Funeral parlors or mortuaries.
- 1141.13** Nursing and convalescent homes, assisted living facilities, ~~and~~ senior housing residential care facility.
- 1141.14** Auditoriums and performing arts theaters, churches, temples and other places of worship.
- 1141.15** Recreation, indoor and outdoor (excluding public parks).
- 1141.16** Golf driving ranges.
- 1141.17** Public utility and essential service structures and uses other than wireless telecommunications facilities.
- 1141.18** Eating and drinking places with the sale of alcohol, ~~T~~avern, pub, brewpub, cocktail lounge, night club or billiard and pool hall.
- 1141.19** Tobacconists and cigar/cigarette shops.
- 1141.20** Video rental establishments.
- 1141.21** Automobile, truck and other motor vehicle service centers (minor repair), repair stations (major repair) and fueling (gas) stations.
- 1141.22** Outdoor eating areas and sidewalk cafes.
- 1141.23** Recording studios.
- 1141.24** Gunsmiths and licensed firearms dealers.
- 1141.25** Hotels.
- 1141.26** Outdoor sales or display area for sales or rentals of goods, products, equipment, machinery, automobiles and other motor vehicles, recreational vehicles, boats, building supplies, hardware or other items.
- 1141.27** Retail stores and commercial uses with 10,000 to 40,000 square feet of gross floor area.
- 1141.28** Industrial uses.
- 1141.29** Outdoor storage of goods, products, equipment, machinery, lumber, landscaping and building supplies or similar items.
- 1141.30** Recycling collection facilities and composting centers.
- 1141.31** Self-storage warehouses.
- 1141.32** Garage sales, estate sales and private auctions.
- 1141.33** Garages for commercial vehicles.
- 1141.34** Temporary structures and uses, including construction buildings.

1141.35 Circuses, fairs, revivals, carnivals and similar uses.

1141.36 Home occupations.

1141.37 Swimming pools.

1141.38 Telecommunications towers.

1141.39 General regulations.

Introduction: This chapter provides standards for specific land uses permitted by this Ordinance, whether such uses are permitted by right or are permitted subject to conditional use approval. These standards are intended to apply in addition to all other requirements of this Ordinance.

1141.01 INDIVIDUAL PRODUCE STANDS AND FARM MARKETS.

(a) Each lot shall be limited to a maximum of one seasonal produce stand not larger than 20 feet by 20 feet. The stand shall be portable and shall be removed from its roadside location during seasons when it will not be in use.

(b) Signs used in connection with the use shall be temporary, and shall be removed when the stand is not in use. All signs shall comply with the requirements of this Ordinance.

(c) The applicant shall submit a sketch plan for approval by the Commission that illustrates locations of all structures, parking areas, driveways, signs and other structures.

1141.02 VETERINARY CLINICS.

(a) Setbacks. Structures shall be set back at least 20 feet from all side and rear property lines, and at least 50 feet from abutting residential districts or uses, churches, schools or restaurants on the same side of the street.

(b) Landscaping and Screening. Outdoor enclosures or runs shall be enclosed by screening in accordance with the screening requirements of this Ordinance.

(c) Operating Requirements. The clinic shall be operated by a licensed or registered veterinarian. All activities shall be conducted within an enclosed building. All boarding shall be limited to animals brought in for treatment or surgery, unless the site has also been approved for a kennel in accordance with the following requirements:

(1) Commercial kennels shall comply with all permit and operational requirements established by county and state regulatory agencies.

(2) Structures in which animals are kept, animal runs, and exercise areas shall not be located in any required yard setback area, and shall be set back at least 500 feet from any residential district or use.

(3) All animal runs and exercise areas shall be enclosed on all sides by screening in compliance with the screening requirements of this Ordinance and shall have impervious surfaces and an appropriate system for runoff, waste collection and disposal.

(4) Performance standards. The Commission may impose other conditions and limitations deemed necessary to prevent or mitigate possible nuisances including but not limited to those related to noise or odor.

(d) Performance Standards. Outdoor exercising is allowed when the pet is accompanied by an employee, provided no animals shall be permitted outside of the buildings between 9:00 p.m. and 8:00 a.m.

1141.03 FARMERS' MARKETS.

(a) Permit Time Limitation. Such use permit shall be valid for one year only, with the option of annual renewal if requested by the applicant and agreed to by the Commission. Renewal shall require approval by Commission motion at a regular meeting. The Commission may, but need not, conduct a public hearing as part of consideration of any requested renewal.

(b) Use Time Limitation. Such use shall occur only during the season beginning on May 1 and ending on November 15. Such use shall regularly occur only on the Saturday of each week during such period of duration, and shall be open to the public only between the hours of 9:00 a.m. and 1:00 p.m. If an applicant wishes to operate such use on any additional day or time for a special reason such as a holiday or other event, such request may be considered by the Commission on a case by case basis.

(c) Use Limitation. Such use shall be limited to use and sales by the applicant and such other vendors who comply, have complied, and can demonstrate compliance with all Federal, State and Local licensing and vending requirements, including but not limited to the Ordinances of the Village, as may be amended from time to time.

(d) Area Limitation. Such use shall be limited to the portion of applicant's property which is shown on the map or plan submitted with the application. Such use shall include no permanent structures, but may include suitable non-permanent pop-up market tents. Such tents shall be removed from the property when the use is not in operation, but may remain at an appropriate site proposed by the applicant and agreed to by the Commission during the use's non- working days.

(e) Parking. Such use shall provide sufficient patron off-street parking for all vendors and patrons, which parking, and ingress to and egress from the site shall not create a hazard or nuisance upon the public roads of the Village or to adjacent properties. No on-street parking shall be permitted at any time for such use.

(f) Traffic Control. Such use shall provide for appropriate traffic control as will assure that there is not created an unsafe condition upon the roads, sidewalks, or pathways of the Village. If, in the sole reasonable opinion of the Zoning Officer, the operation of such use is causing an unsafe condition, it shall be within the right of the Zoning Officer to ameliorate that condition either directly or through discussion with the applicant. The applicant shall reimburse and hold the Village harmless for any cost borne by the Village in this regard.

(g) Capacity. Such use shall be limited to no more than 400 people at any time, including patrons and vendors.

(h) Vendors. Such use shall be valid for no more than 35 qualified farm vendors who are not secondhand vendors, and whose products shall be limited to the items proposed by the applicant and agreed to by the Commission. Such use shall not generally include any artisan vendors. In the event that an applicant wishes to include such vendors for a special reason such as a holiday or other event, such request may be considered by the Commission on a case by case basis.

(i) Local Organizations. Such use shall provide suitable space, at no fee cost, from time to time, to local non-profit organizations including but not limited to the Village, Peninsula Library and Historical Society, Valley Fire District, United Methodist Church, and Mother of Sorrows Church, as well as the Quarry, which shall be permitted for the purpose of allowing such organizations to provide information materials to the public, but not offering items for sale.

(j) Sanitary Facilities. Such use shall provide for appropriate sanitary facilities for all patrons and vendors, which shall include not fewer than two portable sanitary facilities. Such facilities shall be kept clean and operable at all times that the public shall be on the property. Such facilities shall be removed from the property when the use is not in operation, but may remain at

an appropriate site proposed by the applicant and agreed to by the Commission during the use's non-working days. Such use and facilities shall further comply with all requirements of all applicable Health Regulations, including but not limited to those promulgated by the Summit County Board of Health and/or the Village of Peninsula.

(k) Insurance. Such use shall hold valid and binding liability insurance in favor of any patron, vendor or other person who may be injured due to the negligence of applicant or any vendor, their employees and agents, in a minimum principal sum not less than one million dollars. A copy of said insurance shall be provided to the Village upon request.

1141.04 FAMILY DAY-CARE HOMES, TYPE A.

(a) Separation Requirements. No such day-care home may be located less than 1,500 feet from any other such residential facility, as measured between the nearest points on the property lines of the lots in question. The Commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood, or in the Village overall.

(b) Access. Areas shall be provided for employee and resident parking, and pick-up and drop-off of children, in a manner that allows maneuvers without affecting traffic flow on the public street.

(c) Play Area. All day care homes shall provide a fenced, contiguous outdoor play area in the rear yard area of the day care home premises, with a minimum area equal to 150 square feet per child at the maximum licensed capacity of the day care home.

(d) Hours of Operation. The day care home shall operate a maximum of 16 hours per day.

1141.05 BED AND BREAKFAST INNS.

(a) Primary Residence. The dwelling shall be the primary and permanent residence of the bed and breakfast inn operator. Meals or other services provided on the premises shall only be available to residents, employees and overnight guests of the establishment.

(b) Guests. There shall be a maximum of five rooms for lodging, with a maximum of 15 guests at any given time. Guests may stay no longer than 14 days in succession or a total of 60 days in any 12 month period. Off-street parking areas shall be provided for guests outside of any required front yard. Stacking of more than two vehicles in a driveway for parking purposes is prohibited.

(c) Landscaping. Screening shall be provided between adjacent residences and parking areas or any outdoor eating area, in compliance with the screening requirements of this Ordinance.

1141.06 TWO-FAMILY AND THREE-FAMILY DWELLINGS.

The exterior of a two-family or three-family dwelling shall be designed, constructed and maintained in a manner that provides the appearance of a single-family dwelling. The addition of a separate exterior door(s) on the front facade is prohibited. The primary entrance for the second or third dwelling unit may be located on a side or rear wall, or all units may share a common single door entrance on the front facade.

1141.07 MULTIPLE-FAMILY DWELLINGS AND DEVELOPMENTS.

Multiple-family ~~dwelling~~s and developments shall comply with the following:

- (a) Density. The maximum density of a multiple-family development shall be ~~12-6~~ dwelling units per acre of net lot area. Net lot area shall be area exclusive of wetlands or other undevelopable property such as steep slopes or easements.
- (b) Architectural Details. The style and design of the buildings shall be complementary of the historic character of the Village and may include townhomes, apartments above commercial uses, stacked flats or similar designs. Buildings shall not contain more than three dwellings units. Walls visible from a street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to: awnings, cornice work, edge detailing or other decorative finish materials. All buildings shall have pitched roofs, which may include functional dormer windows and varying lines customary with gable or hip style roofing. Buildings in multiple family developments may have separate exterior access on the front of the building.
- (c) Street Design and Vehicle Circulation. Street connections shall be provided to adjacent neighborhoods and parcels in residential districts. Ingress and egress from the public streets shall be designed to minimize congestion and interference with normal traffic flow. All interior roads, drives, and parking areas within a multi-family development, shall be ~~improved with asphalt, concrete, brick or permeable pavers, hard surfaced~~ and provided with curbs and gutters except when an alternative surface treatment is authorized by the Planning Commission. Roadway drainage shall be appropriately designed such that storm water from the roadway will not drain onto the adjacent lots. All access drives shall be 24 feet in width.
- (d) Pedestrian Circulation. Minimum five foot wide concrete, brick or sandstone sidewalks shall be provided from parking areas, public sidewalks and recreation areas to all building entrances. Public sidewalks shall be provided along collector roads and streets with a minimum width established by the Village.
- (e) Maximum Lot Coverage. The maximum lot coverage for a development shall not exceed 50% of the net lot area.
- (f) Open Space Requirement. A multiple family development shall provide a minimum of 10% of the net lot area as common open space. For purposes of this section common open space shall be land within the development which is intended for the common use or enjoyment of the residents of the development.
- (g) Storm Water. Stormwater controls shall be provided:
- (1) Stormwater shall be controled to offset the effect of development, the Ohio Critical Storm method shall be used for all proposed multiple-family developments. The critical storm is based upon the percent increase in runoff volume between the before and after development conditions. Stormwater management shall be provided for all 24 hour storm events having average recurrence intervals ranging from 1 year to 100 years.
- (2) Stormwater management facilities, such as dry, extended and permanent pool detention basins shall be designed to eliminate and reduce stormwater runoff impact of adjacent or downstream properties. No stormwater management facility shall be approved if the effect may cause an increase in peak discharge, volume, or velocity of runoff or change the point of entry of drainage onto another property during the runoff event
- (h) Other Requirements. Adequate landscaping and screening shall be provided along all property lines which abut a residential district or use, and along all street

frontages. Parking or storage of recreational vehicles, boats, utility trailers or similar items shall be prohibited, except in areas designated on an approved final site plan.

~~1141.08 TOWNHOUSES AND STACKED FLATS.~~

~~Townhouses and stacked flats shall comply with the following:~~

- ~~—(a) Density. The maximum density of a townhouse or stacked flat development shall be eight dwelling units per acre, exclusive of any land area occupied by water bodies.~~
- ~~—(b) Street Design. Street connections shall be provided to adjacent neighborhoods and parcels in residential districts. Alleys shall be provided for access to rear yard garages. Such alleys shall have a minimum pavement width of 20 feet and shall be located within a minimum 30 foot wide private access easement. An alley shall be designed to provide only secondary access to dwellings.~~
- ~~—(c) Pedestrian Circulation. Minimum four foot wide concrete, brick or sandstone sidewalks shall be provided on both sides of all internal streets within a townhouse or stacked flat development, between the public sidewalk and all dwelling entrances, and within all open space areas. Sidewalks along collector roads and street shall be at a width determined by the Village.~~
- ~~—(d) Other Requirements. Adequate landscaping and screening shall be provided along all property lines which abut a residential district or use, and along all street frontages. Parking or storage of recreational vehicles, boats, utility trailers or similar items shall be prohibited, except in areas designated on an approved final site plan.~~

~~1141.09 LIMITED BUSINESS, INSTITUTIONAL AND HISTORIC USES. (REPEALED)~~

~~—(EDITOR’S NOTE: Former Section 1141.09 was repealed by Ordinance 2006-0508-11, passed May 8, 2006.)~~ **GREENHOUSES AND NURSERIES (PRIMARY USE).**

Greenhouses and nurseries shall be permitted if they do not provide retail sales of their product use they comply with the following standards and the standards for a conditional use as outline in Section 1149.07.

- (a) Greenhouses and Nurseries in the R-1 Rural Residential District shall only be permitted to sell the nursery stock and products grown on the site.
- (b) All signs shall comply with the requirements of this Ordinance.
- (c) The applicant shall submit a sketch plan for approval by the Commission that illustrates locations of all structures, parking areas, driveways, signs and other structures.
- (d) All structures and parking associated with a greenhouse or nursery use shall be buffered and screened from the adjacent property.

1141.10 CATERING FACILITIES.

In the C, Commercial District, catering facilities shall only be permitted as an accessory use located entirely within the space occupied by a permitted restaurant use. In the MU, Mixed Use District, such facilities may be permitted as a principal use.

1141.11 MASSAGE THERAPISTS.

Massage therapy clinics and uses shall be subject to the following conditions:

(a) Hospitals, sanitariums, nursing homes, medical clinics, or the offices of physicians, surgeons, chiropractors, osteopaths, psychologists, clinical social workers or family counselors who are licensed to practice in the State shall be permitted to provide massage therapy services as an accessory use within the principal building.

(b) All massage therapists shall be licensed (where such licenses are available) and shall be certified members of the American Massage and Therapy Association or International Myomassethics Federation. Proof of such licenses or certifications shall be provided to the Village.

(c) All activities that meet the definition of an adult use or sexually-oriented business shall be prohibited.

1141.12 FUNERAL PARLORS OR MORTUARIES.

(a) Minimum Lot Size. Sites shall have a minimum lot area of one-half acre, and a minimum lot width of 150 feet.

(b) Parking and Circulation. An off-street assembly area shall be provided for funeral processions and activities. This area may be incorporated into the required off-street parking and maneuvering areas. Streets and alleys shall not be used for maneuvering or parking of vehicles.

(c) Screening. The service and loading area shall be screened from adjacent property.

(d) Chemicals. Any proposed use shall provide the Village, as well as the Valley Fire District, with a list of any and all chemicals to be used in conjunction with the use, including any information available pertaining to flammability, where applicable.

1141.13 NURSING AND CONVALESCENT HOMES, ASSISTED LIVING FACILITIES, AND SENIOR HOUSING, RESIDENTIAL CARE FACILITY 6 TO 16 PERSONS.

(a) Minimum Size. Sites must have a minimum lot area of two acres, and all dwelling units shall have a minimum of 450 square feet per unit.

(b) Separation Requirements. No foster care group home shall be located closer than 1,500 feet to any such residential facility, measured from the nearest wall of each such structure. The Commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood, or in the Village overall.

(c) Access. All access shall be from a major street. Walkways shall be provided from the main building entrances to any sidewalks along the adjacent public streets. A sidewalk shall be placed along the entire road frontage of the facility per Village standards.

(d) Allowable Density Modification. The allowable density of the underlying zoning district may be increased by no more than 50 percent for all nursing care units licensed by the State, or 25 percent for non-licensed nursing care and supportive care units.

(e) Accessory Uses. Accessory retail, restaurant, food service, office and service uses may be permitted within the principal residential building. No exterior signs of any type are permitted for these accessory uses.

(f) Emergency Care. Each such use shall be required to provide for timely and appropriate on-site or otherwise available emergency medical care and transportation.

1141.14 AUDITORIUMS AND PERFORMING ARTS THEATERS, CHURCHES, TEMPLES AND OTHER PLACES OF WORSHIP.

(a) Height. The maximum height of the principal building shall be permitted to exceed the maximum height requirements of the district up to a maximum height of 45 feet. The highest point of chimneys, spires, cupolas, domes and towers may be erected to a height not exceeding twice the height of the building, provided that no such structure shall occupy a total area greater than 20 percent of the roof area of the building.

(b) Screening. Screening shall be provided in accordance with this Ordinance where the site abuts a residential district or use.

(c) Accessory Facilities. Accessory facilities such as rental, fellowship or social halls, gymnasiums or recreation facilities, and other similar and traditional uses shall be permitted, subject to the requirements of this Ordinance.

(d) Impact Assessment. The Commission may require an impact assessment for places of assembly that have a seating capacity of over 500 persons.

1141.15 RECREATION, INDOOR AND OUTDOOR (EXCLUDING PUBLIC PARKS.)

(a) Permitted Uses. Permitted uses may include, but shall not be limited to recreational fields, rinks or courts, including football, softball, soccer, tennis, basketball, ice or in-line skating and similar activities, bowling alleys, swimming pools open to the general public or operated by a private or a non-profit organization, music concert pavilions and band shells.

(b) Accessory Uses. Permitted accessory uses to the above permitted uses may include, but shall not be limited to refreshment stands, retail shops selling items related to the above uses, maintenance buildings, offices for management functions, spectator seating and service areas, including locker rooms and rest rooms. Accessory retail or commercial facilities shall be designed to serve only the patrons of the recreation facility, unless otherwise listed as a permitted use in the district where the facility is located.

(c) Setback Requirements. No structure or spectator seating facility shall be located within 50 feet of a property line, nor within 200 feet of any residential district or use. Pools shall be at least 100 feet from any residential zoning district.

(d) Performance Standards.

(1) The location, layout, design, or operation of recreation facilities shall not impair the continued enjoyment, use, and future orderly development of adjacent and nearby properties.

(2) A plan to control loitering and litter shall be provided.

(3) Recreation uses shall comply with Chapter 1137, Performance Standards, of this Ordinance.

(4) Parking shall be determined by the Planning Commission based on the layout, design and uses proposed by the development.

1141.16 GOLF DRIVING RANGES.

(a) Setbacks. Parking lots shall be set back at least 30 feet from the street right-of-way and 100 feet from any property line abutting a residential district or use. No structure shall be located less than 200 feet from the property line of any abutting residential district or use.

(b) Access. All traffic ingress and egress shall be from a major street.

(c) Screening. Any lot line abutting a residential zoning district shall provide a landscaped buffer strip in accordance with this Ordinance.

(d) Performance Standards. Site size shall be sufficient to retain errant balls within the site. Netting is prohibited unless the Commission determines the netting would be compatible

with surrounding uses. The Commission may restrict lighting and hours of operation for a driving range.

(e) Site Plan Requirements. The site plan shall illustrate expected trajectory or ball dispersion patterns along fairways and for driving ranges where adjacent to residential uses, buildings, parking lots or public streets.

1141.17 PUBLIC UTILITY AND ESSENTIAL SERVICE STRUCTURES AND USES OTHER THAN WIRELESS TELECOMMUNICATIONS FACILITIES.

(a) Need. Applicants must provide evidence of the necessity for the proposed location of all public utility and essential service structures and uses.

(b) Setbacks. Electric or gas regulator equipment and apparatus shall be set back a minimum of 20 feet from all lot lines.

(c) Screening. Screening requirements are subject to Commission approval based on analysis of potential effect on surrounding properties. Any permitted storage yards shall be screened from adjacent residential districts or uses in accordance with this Ordinance.

(d) Use Requirements. Such structures and uses shall be subject to conditions or limitations designed to minimize any adverse impacts from the use on surrounding properties. Structures shall be architecturally compatible with the surrounding neighborhood.

1141.18 EATING AND DRINKING PLACES WITH THE SALE OF ALCOHOL, TAVERN, PUB, BREWPUB, COCKTAIL LOUNGE, NIGHT CLUB OR BILLIARD AND POOL HALL.

Such establishments shall be located at least 1,000 feet from all child care centers, schools, residential care facility, parks, hospitals and adult uses or sexually-oriented businesses. Screening consisting of a six foot masonry wall and a buffer strip shall be required on all side and rear lot lines abutting a residential district or use.

1141.19 TOBACCONISTS AND CIGAR/CIGARETTE SHOPS.

Such establishments shall be located at least 1,000 feet from any foster home, residential care facility, childcare center, school, park, or hospital.

1141.20 VIDEO RENTAL ESTABLISHMENTS.

Any video rental establishment meeting the definition of a Sexually Oriented Business as outlined in this Ordinance shall conform to all requirements outlined in Chapter 1151.

1141.21 AUTOMOBILE, TRUCK AND OTHER MOTOR VEHICLE SERVICE CENTERS (MINOR REPAIR), REPAIR STATIONS (MAJOR REPAIR) AND FUELING (GAS) STATIONS.

(a) Minimum Lot Size and Setbacks. The minimum lot area shall be 15,000 square feet, with a minimum of 150 feet of frontage on a major street. Pump island canopies shall be set back a minimum of 20 feet from any right-of-way line. Fuel pumps shall be located a minimum of 30 feet from any right-of-way line.

(b) Access. Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance for other ingress and egress drives, traffic generated by other buildings or uses, or adjacent pedestrian crossings. The edge of any access drives shall be set

back a minimum of 50 feet from the intersections of two street right-of-way lines. No more than one access drive curb opening shall be permitted per street.

(c) Overhead Doors. Overhead doors shall not face a residential district or use. The Commission can modify this requirement upon a determination that there is no reasonable alternative, subject to additional screening being provided.

(d) Pump Island Canopy. The proposed clearance of any pump island canopy shall be noted on the site plan. Any signs, logo or identifying paint scheme on the canopy shall be reviewed by the Commission. All lighting fixtures under the canopy shall be fully recessed into the canopy structure. The Commission may permit a maximum intensity of 20 footcandles for lighting under the canopy, provided that site lighting is otherwise in compliance with this Ordinance.

(e) Repair and Service Use Limitations. All equipment and service bays shall be entirely within an enclosed building, and all repair work shall be conducted completely within an enclosed building. Repair stations shall not be permitted on sites immediately adjacent to any residential zoning district or use.

(f) Temporary Vehicle Storage. The storage, sale, rental or display of new or used cars, trucks, trailers and any other vehicles, vehicle components and parts, materials, commodities, supplies or equipment on the premises is prohibited except in conformance with the requirements of this section and Ordinance. Inoperable vehicles shall not be stored or parked outside for a period exceeding 30 days for repair stations and 24 hours for service centers. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.

(g) Noise and Odors. There shall be no external evidence of service and repair operations, in the form of dust, odors, or noise, beyond the interior of the service building. Buildings containing service and repair activities shall have appropriate filtering systems to prevent emission of paint odors. Building walls facing any residential districts or uses shall be of masonry construction with sound proofing.

(h) Screening. Screening shall be provided on those side and rear lot lines abutting a residential district or use in accordance with this Ordinance. All wrecked or damaged vehicles shall be screened from public view, and shall not be parked or stored within any front yard area.

(i) Pollution Prevention. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) describing measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins and automatic shut off valves.

1141.22 OUTDOOR EATING AREAS AND SIDEWALK CAFES.

All outdoor eating areas and sidewalk cafes shall be accessory to a permitted restaurant use and shall be subject to the permit approval procedure and other Village requirements.

1141.23 RECORDING STUDIOS.

No internal noise or sounds shall be audible outside of the building or beyond the walls of the space occupied by the studio. External activities generating noise or sound shall be no greater than the existing background noise level of the surrounding area.

1141.24 GUNSMITHS AND LICENSED FIREARMS DEALERS.

Such establishments shall be located at least 1,000 feet from any foster home, childcare center, residential care facility, school, park or hospital. Such establishments shall further post in a

location clearly visible to all customers an informational disclosure regarding any limitations placed by the Village on the discharge of firearms within Village limits.

1141.25 HOTELS.

(a) Access. Secondary building entrances and exterior room entrances shall not face a residential district or use.

(b) Minimum Unit Requirements. There shall not be less than 20 units, each of which shall be a minimum of 250 square feet of area per unit, and each unit available for rental shall contain a bathroom of not less than 35 square feet, at least one bedroom with not less than 150 square feet and a closet of not less than eight square feet.

(c) Additional Requirements. The hotel shall provide customary services, such as maid service, linen service, telephone and/or desk service, and may provide an attached public dining room for the accommodation of not less than 40 guests and a general kitchen, or an unattached restaurant with seating capacity for not less than 50 occupants located directly adjacent to the hotel or motel.

1141.26 OUTDOOR SALES OR DISPLAY AREA FOR SALES OR RENTALS OF GOODS, PRODUCTS, EQUIPMENT, MACHINERY, AUTOMOBILES AND OTHER MOTOR VEHICLES, RECREATIONAL VEHICLES, BOATS, BUILDING SUPPLIES, HARDWARE OR OTHER ITEMS.

(a) Setback Requirements. Outdoor sales or display areas shall be set back a minimum of 10 feet from any parking area, driveway or access drive, and 20 feet from any street right-of-way. No outdoor sales area shall be located within 50 feet of any residential district or use.

(b) Sidewalk Standards. A minimum of five feet of sidewalk width to the entrance of the establishment shall be maintained free for pedestrian circulation.

(c) Performance Standards. Outdoor sales and display areas must be kept clean, litter-free, and outdoor waste receptacles shall be provided. Written procedures for cleaning and waste containment and removal responsibilities shall be included with all applications and approved as part of site plan review. Vending machines and devices for outdoor broadcasting of voice, telephone monitoring, music or any other amplified sound shall be ~~prohibited~~prohibited.

(d) Signs. Additional signs shall not be permitted beyond those permitted for the primary use.

(e) Surface. Sales and display areas shall be provided with a permanent, durable and dustless surface, and shall be graded and drained so as to dispose of all surface water. All areas for display of automobiles, trucks, recreational vehicles, boats and similar items shall be paved.

(f) Landscaping and Screening. Such sales or display area shall be separated from the parking area by landscaping, a decorative wall or other architectural feature in accordance with the screening requirements of this Ordinance. A six foot fence or wall, greenbelt or buffer strip may be required along the rear and sides of the lot, capable of keeping trash, paper, and other devices from blowing off the premises.

1141.27 RETAIL STORES AND COMMERCIAL USES WITH 10,000 TO 40,000 SQUARE FEET OF GROSS FLOOR AREA.

(a) Access and Circulation. A traffic impact study shall be required. The design shall ensure that vehicular circulation patterns are appropriately designed to eliminate potential conflicts between traffic generated by the site, and traffic on adjacent streets and streets. The number and location of curb cuts shall be the minimum necessary to provide adequate access to the site.

(b) Landscape and Screening. A greenbelt with a width of ~~20~~ 5 feet shall be provided along all street frontages and side or rear yards to screen the view of the property from street rights-of-way and adjacent residential districts or uses in accordance with the screening requirements of this Ordinance, along with adequate screening for all loading facilities, trash receptacles, and mechanical equipment.

(c) Loading and Unloading Areas. Outdoor storage, pickup, delivery, loading and unloading of merchandise, equipment or other items, mechanical equipment, and trash disposal or compaction shall not occur within 50 feet of a residential district or use, nor shall such activities take place between the hours of 10:00 p.m. and 7:00 a.m. No delivery vehicle within 50 feet of residential property shall have its engine, refrigeration unit or generator running between the hours of 10:00 p.m. and 7:00 a.m. Trucks or trailers parked at a loading dock may be unloaded onto the loading dock between the hours of 10:00 p.m. and 7:00 a.m. provided that all activity occurs inside the truck or trailer or within the building.

(d) Pedestrian Walkway. A six foot wide concrete, brick or sandstone sidewalk shall be provided from the public sidewalk to the main entrance in a manner that effectively separates pedestrians from vehicular traffic. Driveway crossings shall be clearly delineated with pavement striping. Sidewalks shall be placed along the entire road frontage subject to Village standards.

1141.28 INDUSTRIAL USES.

(a) Use Statement. The applicant must supply the following documentation with any plan submitted for review:

(1) Description of any discharge of any type of wastewater to a storm sewer, drain, lake, stream, wetland, other surface water body or into the groundwater.

(2) Description of storage of any salt, oil or other potentially hazardous materials including common name, name of chemical components, location, maximum quantity expected on hand at any time, type of storage containers or base material, and anticipated procedure for use and handling.

(3) Description of any transportation, on-site treatment, storage or disposal of hazardous waste.

(4) Description of any secondary containment measures, including design, construction materials and specifications, and security measures.

(5) Description of any other expected impacts associated with the use and any mitigation measures to be employed.

(b) Setbacks and Screening. Sites shall not be located within ~~500~~100 feet of any residential district or use. Appropriate screening shall be provided along all side or rear lot lines in accordance with the screening requirements of this Ordinance.

(c) Parking and Loading. All parking, loading and maneuvering space shall be contained within the site. Special consideration shall be given to any potential loading and unloading nuisances on surrounding properties.

(d) Performance Standards. All such uses shall comply with the provisions of Chapter 1137, Performance Standards of this Ordinance.

1141.29 OUTDOOR STORAGE OF GOODS, PRODUCTS, EQUIPMENT, MACHINERY, LUMBER, LANDSCAPING AND BUILDING SUPPLIES OR SIMILAR ITEMS.

(a) General Requirements. All outdoor storage areas must comply with the following requirements:

(1) No junk or junk vehicles shall be stored.

(2) The storage of soil, fertilizer and similar loosely packaged materials shall be contained and covered to prevent them from blowing into adjacent properties.

(3) Any outside storage area shall be paved or surfaced with hard surface material and shall include a storm water drainage system.

(b) Setbacks. Any storage area shall comply with the minimum setback requirements for the district in which the facility is located, and no storage shall be permitted in the front yard.

(c) Landscaping and Screening. Sites shall be visually screened from all adjoining properties and street rights-of-way by a greenbelt or buffer strip and a solid decorative masonry wall or fence at least six feet and no more than eight feet in height, in accordance with the screening requirements of this Ordinance. No materials shall be stored above the height of the required wall or fence. No trailer, manufactured home or truck trailer shall be stored or used for storage.

1141.30 RECYCLING COLLECTION FACILITIES AND COMPOSTING CENTERS.

(a) General Standards. Recycling facilities shall be limited to the collection of recyclable materials for processing at another site. All storage of recycled materials shall be within appropriate containers that have adequate and convenient access, with lockable lids and doors. Access shall be provided solely on major streets.

(b) Setbacks. Commercial composting operations shall be at least 500 feet from any residential district or use. All composting operations shall be at least 200 feet from the boundary of any lake, stream, drain, wetland, or other surface water body, and the applicant shall describe procedures for managing stormwater runoff and preventing pollution of surface water bodies or groundwater.

(c) Performance Standards. The applicant shall submit an impact assessment describing the expected odors, aesthetics, environmental impacts, vehicular and truck traffic impacts associated with the use, and any mitigation measures to be employed.

(d) Screening and Landscaping. Screening and landscaping shall be provided in accordance with the screening requirements of this Ordinance as deemed necessary by the Commission.

1141.31 SELF-STORAGE WAREHOUSES.

(a) Permitted Uses. The use shall be limited to storage of household and non-hazardous commercial goods. An accessory caretaker's residence shall be permitted for the person or persons responsible for the operation of the facility.

(b) Minimum Lot Size and Setbacks. The minimum lot area shall be three acres. The minimum building and parking setback shall be 50 feet from any street right-of-way line, residential district or off-site residential use.

(c) Screening and Landscaping. Screening shall be provided on those side or rear lot lines abutting a residential district or use in accordance with the screening requirements of this Ordinance.

(d) Parking and Loading. All parking, loading and maneuvering space shall be contained within the site. Special consideration shall be given to any potential loading and unloading nuisances on surrounding properties.

(e) Storage. All storage shall be completely within enclosed structures.

1141.32 GARAGE SALES, ESTATE SALES AND PRIVATE AUCTIONS.

Garage sales, estate sales, and private auctions shall be permitted as accessory uses in any district. Not more than one such event may occur on any property within any six month period, and the duration of any such event shall not exceed three days or two consecutive weekends.

1141.33 GARAGES FOR COMMERCIAL VEHICLES.

A structure for the storage of commercial vehicles used by a permitted use in a non-residential district, shall occupy not more than 25 percent of the lot area, and shall be located outside of any required yard areas.

1141.34 TEMPORARY STRUCTURES AND USES, INCLUDING CONSTRUCTION BUILDINGS.

Temporary structures and uses may be permitted, including a temporary dwelling installed on a single-family residential lot while a permanent dwelling is under construction. Such structures and uses shall comply with all applicable Village Codes and Ordinances, and shall be subject to the following:

(a) Site and Use Standards. Temporary structures and uses shall comply with the following:

(1) The provisions of Chapter 1137, Performance Standards.

(2) The dimensional standards and use provisions of this Ordinance for the district and type of structure or use.

(3) Provisions for emergency vehicle access, off-street parking and loading, drainage and soil erosion.

(4) Other conditions necessary to protect the public health, safety and general welfare. .)

(b) Duration. In no event shall a temporary structure or use, other than temporary construction buildings, be permitted on a site for longer than one year. The Zoning Officer may impose a lesser time limit where deemed necessary.

(c) Temporary Construction Buildings. Temporary buildings associated with construction shall not be erected in any district unless a site plan has been approved for the planned structure, and such buildings shall be removed from the site before a final certificate of completion is issued for the final building.

1141.35 CIRCUSES, FAIRS, REVIVALS, CARNIVALS AND SIMILAR USES.

Such uses may be permitted without regard to whether the institution or organization sponsoring the use is non-profit or for-profit in nature. Such use and occupancy shall not be disturbing to the public peace and tranquility, and shall not create undue traffic hazards and congestion. Limitations on hours of operation may be established by the Village, or any other measures deemed necessary to minimize negative impacts on nearby uses and traffic operations along public streets.

(a) Permits and Approvals. Sketch plan approval shall be obtained from the Commission. When such uses are for more than seven calendar days during a year, approval is also required from the Council. Appropriate permits shall be secured by the applicant from the County, the Administrative Official and other agencies with jurisdiction.

(b) Insurance. The applicant shall provide evidence of adequate public liability insurance and property damage insurance to cover potential liability for death or injury to persons or damage to property, which may result from the conduct of the activity.

(c) Setbacks and Fencing. All buildings, structures and parking shall be at least 300 feet from any dwelling. The Village may require placement of temporary fencing around all or part of the site.

(d) Renewals. Renewals of recurring or previously permitted or otherwise occurring uses or events shall require approval by the Council. The Council may, annually or otherwise, periodically, adopt and amend a resolution which includes a list of any such uses or events which fall into this category, their anticipated future dates of occurrence, and any specific conditions or requirements that it deems appropriate to impose.

1141.36 HOME OCCUPATIONS.

(a) Intensity of Use. Home occupations must be conducted within a principal single family detached dwelling unit and permitted accessory structures, and shall not occupy more than 25 percent of the gross floor area of the structures. The exterior of the dwelling shall not be altered from its residential appearance.

(b) Parking and Loading. Home occupations shall be limited to the parking or storage of one commercial vehicle on the premises not exceeding a one ton capacity, provided such vehicle is directly related to the home occupation. Delivery vehicles used to deliver goods to a home occupation are limited to automobiles, passenger vehicles, mail carriers and express package carriers. Deliveries shall only be permitted between the hours of 8:00 a.m. and 8:00 p.m.

(c) Performance Standards. The home occupation shall comply with the provisions of Chapter 1137, Performance Standards, of this Ordinance, and the following:

(1) Customer or client visits to a home occupation are limited to between the hours of 8:00 a.m. to 8:00 p.m. A home occupation shall not generate more than 20 customer or client visits per week, and no more than two customer or client vehicles may be present at any given time.

(2) The home occupation shall have no more than two non-resident employees working on the premises at any given time. The number of non-resident employees working exclusively at other locations is not limited.

(d) Permitted Uses. The following uses are permitted home occupations:

(1) Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, realtors, accountants, writers, salespersons and similar occupations.

(2) Personal services, including barber shops, beauty parlors, manicure and pedicure shops, grooming, catering and chauffeuring services.

(3) Home office for massage therapists, subject to the standards of Section 1141.11.

(4) Music, dance, art and craft classes, tutoring, and studios for artists, sculptors, musicians and photographers.

(5) Workshops for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, cabinetry and wood-working.

(6) Repair services, limited to watches and clocks, small appliances, computers, electronic devices and similar small devices.

(e) Prohibited Uses. The following uses are expressly prohibited as home occupations:

(1) Kennels.

(2) Hospitals, medical and dental clinics and veterinary clinics.

(3) Any eating and/or drinking establishments, except as part of a Bed and Breakfast Use permitted subject to the standards of Section 1141.07.

(4) Automobile, truck, recreation vehicle, boat or small engine repair.

(5) Undertaking and funeral homes.

(6) Adult uses and sexually-oriented businesses.

(f) Conditional Uses. Any home occupation not specifically listed in either of the lists in subsections (d) or (e) above may be permitted as a conditional use, subject to the requirements for conditional uses outlined in this Ordinance.

1141.37 SWIMMING POOLS.

Indoor swimming pools shall be considered part of the principal building and shall be permitted if located entirely within the principal building, subject only to the standards outlined in subsections (e) and (f) below. All outdoor swimming pools, including spas, may be allowed as an accessory use subject to all of the following conditions:

(a) Placement. Outdoor swimming pools shall be placed no closer to the front lot line than the front line of the principal building. On residential lots, the pool shall be placed no closer than 15 feet to the side or rear lot line. On corner residential lots, the pool shall be no closer than 35 feet to the side lot line.

(b) Height. No outdoor swimming pool shall have a height above grade greater than 52 inches (as measured at a distance of six inches from the side of the pool). The height of any pool appurtenances shall not be greater than three feet above the top of the pool. The combined height above the ground of any swimming pool plus appurtenances shall not exceed six feet at any point.

(c) Enclosure/Fencing.

(1) All outdoor swimming pools shall be completely surrounded by a fence or wall not less than four feet in height (measured from finished grade level), which shall be so constructed as not to have openings, holes, or gaps larger than three inches wide except for doors and gates. A principal or accessory building may be used as part of such enclosure.

(2) All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling or accessory building which forms a part of the enclosure need not be so equipped.

(3) A portable spa may be secured by the use of a rigid safety cover with a locked top, in lieu of a fence or wall. A "portable spa" is defined as a non-permanent structure intended for recreational bathing, for which all controls, water heating and water-circulating equipment are integral parts of the product.

(d) Screening. All outdoor swimming pools shall be screened by material of sufficient density to obscure its view from adjacent dwellings and public streets. Screening shall be placed no closer to the side of the pool than 72 inches.

(e) Illumination. All illumination for the pool or surrounding area must be directed entirely onto the pool area and must not shine onto adjacent properties or streets.

(f) Drainage. Discharge of any water from any swimming pool shall be onto the property where the pool is located or into the nearest storm sewer. The discharge shall not flow onto, through or otherwise affect adjacent properties.

(g) Other Regulations. The construction and operation of swimming pools shall meet all other applicable County and State regulations.

1141.38 TELECOMMUNICATIONS TOWERS.

(a) Purpose. These regulations governing telecommunications towers are established to provide for the construction, execution, extension and removal of such towers in districts permitting residential uses in the Village and are related to certain applications of technology and

engineering in the field of telecommunications. The purpose of these regulations is to balance the competing interests created by the federal Telecommunications Act of 1996 (Public Law 104-104) and the interests of the Village in regulating telecommunications towers and related facilities for the following reasons:

- (1) To provide for orderly development within the Village;
- (2) To protect property values;
- (3) To maintain the aesthetic appearance of the Village, including, but not limited to, its residential character, local business areas, and scenic views;
- (4) To protect residential properties, parks, open spaces and the commercial and institutional zoning districts from the adverse effects of towers and related facilities;
- (5) To promote collocation of telecommunications towers in order to decrease the total number of towers in the Village; and
- (6) To provide for and protect the health, safety and general welfare of the residents and visitors of the Village.

(b) Applicability. No person shall locate, erect, construct, reconstruct, change, alter, remove or enlarge a telecommunications tower in the Village without compliance with the provisions of this chapter.

(c) Use Regulations.

(1) A telecommunications tower shall only be permitted as a conditional use in the MU District. A telecommunication tower is not permitted in any other zoning district in the Village.

(2) The installation of a telecommunication antenna(s), and the expansion of an existing equipment shelter to serve such antenna(s), may be permitted as a conditional use on an existing telecommunication tower in any district.

(3) The installation of a telecommunications antenna where the construction or erection of a tower is not proposed by the applicant, shall be permitted as an accessory use on existing towers, buildings or structures. To the extent the remaining standards of this section are applicable to the situation involving the installation of a telecommunications antenna(s) on an existing tower, building or structure, such standards shall govern the installation.

(d) Collocation.

(1) All applicants for construction or erection of telecommunications towers shall be required to construct on a base tower structure and structure foundation that is designed to be buildable, up to, but not including, 200 feet above grade. Such structure shall be designed to have sufficient structural loading capacity to accommodate at least four antenna platforms or antenna arrays of equal loading capacity for four separate providers of service to be located on the structure when constructed to the maximum allowable height. The telecommunications facility shall also be designed to show that the applicant has enough space on its site plan for an equipment shelter large enough to accommodate at least four separate users of the facility. If an equipment shelter is initially constructed to accommodate only one user, space shall be reserved on site for equipment shelter expansions to accommodate up to at least four separate users. Agreement to the provisions of this subsection must be included in the applicant's lease with the landowner, if different from the owner/user of the tower. Written documentation must be presented to the Commission evidencing that the landowner of the property on which the tower is to be located has agreed to the terms of this subsection. As an additional condition of issuing a conditional use permit, the owner/user shall respond in writing to any inquiries regarding collocation of another user of the facility within 30 days after receipt of a written

inquiry. Copies of all written requests to collocate and all written responses shall be sent to the Commission.

(2) The applicant requesting permission to install a new tower shall provide evidence that there is no technically suitable space for the applicant's antenna(s) and related facilities reasonably available on an existing tower, building or structure within the geographic area to be served. With its application, the applicant shall identify the location of every tower, building or structure that could support the proposed antenna(s) or area where it would be technically suitable to locate so as to allow it to serve its intended function. As part of its application, the applicant shall provide a scaled map of all of its existing, proposed or planned antenna locations within a five-mile radius of the site which is the subject of the application.

The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building or structure. If an existing tower, building or structure is technically suitable, the applicant must demonstrate that it has made written request to collocate on the existing tower, building or structure and the request was rejected by the owner of the tower, building or structure. In all circumstances, owners of existing towers shall promptly respond in writing to requests for collocation, but in no event shall they respond more than 30 days from the date of receipt of a written request for collocation. If another telecommunications tower is technically suitable, the applicant must further show that it has offered to allow the owner of that other tower to collocate an antenna(s) on another tower within the Village which is owned or controlled by the applicant, if available, on commercially reasonable terms and the offer was not accepted.

(e) Spacing. There shall be a separation of a minimum of one-half mile between telecommunications towers.

(f) Height. Notwithstanding the height requirements of the underlying zoning district, the maximum height of a free-standing telecommunication tower, including its antenna and all appurtenances, shall be less than 200 feet above grade. The height of any equipment shelter shall not exceed 18 feet from grade.

(g) Setbacks. The tower and related facilities shall comply with the required setbacks in the zoning district in which they are located. In no event shall a telecommunications tower or facility be located in front of the principal building on the lot, if any.

(h) Design.

(1) All telecommunications towers should be monopole design, and shall be painted light gray in color unless otherwise required by state or federal law.

(2) Where conditionally permitted, all telecommunications facilities shall be subject to review by the Commission for the purpose of enhancing the compatibility of the facilities with their surroundings.

(3) The telecommunications antennas shall be of a panel design and mounted flush to the tower, building, or structure which elevates the antennas, unless the applicant can demonstrate that it is not feasible from an engineering standpoint to use such antennas or to mount them in such a fashion.

(i) Landscaping. A landscaped buffer area of not less than 15 feet in depth shall be placed between the telecommunications facilities and the public rights-of-way and any adjacent properties from which a direct view can be had of the facilities, other than the tower itself. The 15 foot landscaped buffer shall have a tight screen fence of hardy evergreen shrubbery not less than six feet in height at the time of planting. The landscaping shall be continuously maintained and promptly restored, if necessary.

(j) Engineering Report. A report shall be prepared and submitted by a qualified and licensed professional engineer and shall provide proof of compliance with all applicable federal, State, County and Village regulations. The report shall include a detailed description of the telecommunications tower, antenna(s), equipment shelter, and appurtenances, and shall certify that radio frequency (electromagnetic) emissions are in compliance with the regulations of the Federal Communications Commission (FCC).

(k) Maintenance.

(1) Upon the provision of a notice, the applicant shall submit a plan documenting how the telecommunications facility will be maintained on the site in an ongoing manner that meets industry standards.

(2) On each biennial anniversary of the issuance of the zoning permit for a telecommunications facility, or not more than 90 days prior thereto, the owner/user shall submit to the Zoning Officer a report prepared by a licensed professional engineer(s) which shall verify continued compliance of the facility with all governmental requirements including, but not limited to, the structural integrity and stability of any towers or antennas, electrical safety standards, and auxiliary power source safety standards.

(l) Lighting. Except as required by law, an antenna or a tower shall not be illuminated and lighting fixtures or signs shall not be attached to the antenna or tower. If lighting is required by Federal Aviation Administration (FAA) regulations, the most visually unobtrusive “start-of-the-art” lighting available shall be used, unless otherwise required by the FAA.

(m) Security.

(1) A security fence, not less than eight feet in height, shall fully enclose those portions of the telecommunications facility which come in contact with the ground. Gates shall be locked at all times.

(2) A permanent warning sign with a minimum size of two square feet and a maximum size of six square feet shall be posted on the site. In addition the sign shall specify an emergency telephone number of the owner/user of each set of antennas on the site. The owner/user shall also provide the Zoning Officer and the Fire Chief with information on whom to contact, an address, and a telephone number in the event of an emergency.

(n) Advertising Prohibited. No advertising sign(s) or devices shall be permitted anywhere on a telecommunications tower site.

(o) Outdoor Storage. There shall be no outdoor storage of equipment or other items on the telecommunications facility site except during the facility construction period and to supply emergency power to the facility only during a power outage.

(p) Access to Facility. The access driveway to the telecommunications facility shall, whenever feasible, use circulation driveways of the existing use on the lot, if any. Where use of an existing driveway is not feasible, the driveway to the facility shall be a minimum of 18 feet in width with a minimum overhead clearance of 11 feet and shall be set back a minimum of 20 feet from the nearest side or rear lot line. This driveway shall meet the load limitations for fire equipment. If the access road to the facility is more than 1,500 feet from the public right-of-way, a turnaround shall be provided for emergency vehicles at the site and a by-pass, adequate for emergency vehicles, with an approachable access shall be provided for each additional 1,500 feet of the driveway. There shall be a maximum of one off-street parking space on the facility site.

(q) Accessory Equipment Shelter. The maximum cumulative total size of all equipment shelters accessory to a telecommunications tower or antenna on a lot shall be 1,000 square feet, and their maximum height shall not exceed 18 feet above grade. Only one equipment shelter, or

the configuration of more than one shelter appearing as one shelter, shall be permitted on a lot. Where it is technically feasible and reasonably practical, an existing building or structure on a lot shall be used to shelter the equipment associated with a telecommunications facility.

(r) Underground Utilities. All utility lines from the utility source to the telecommunications facility shall be underground.

(s) Time Limit for Commencement and Completion. After issuance of a zoning permit to construct a telecommunications facility, the applicant shall commence construction within six months and shall complete construction within one year or the zoning permit shall expire.

(t) Abandonment and Removal of Facilities.

(1) If at any time the use of the telecommunications facility is discontinued for 180 consecutive days, said facility shall be deemed abandoned. The Zoning Officer shall notify the owner/user in writing and advise that the facility must be reactivated within 90 days or it must be dismantled and removed from the site within that same ninety 90-day period at the cost of the owner/user. The owner/user of the telecommunications facility shall, on no less than an annual basis from the date of issuance of the zoning permit, file a declaration with the Zoning Officer as to the continuing operation of each of its facilities within the Village.

(2) The applicant for the telecommunications facility shall be required as a condition of issuance of a zoning permit to post a cash or surety bond acceptable to the Village Solicitor of not less than \$100.00 per vertical foot from grade of the telecommunications facility, which bond shall insure that an abandoned, obsolete or destroyed telecommunications antenna or tower shall be removed within 90 days of cessation of use or abandonment. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond, as principal, to insure that the bond will be in place during the period of time that the successor-in-interest or assignee occupies the facility.

(u) Exemption of Certain Village Property. Regardless of the provisions of this chapter, a telecommunications facility may be permitted on any property owned or controlled by the Village and used for public services and shall be constructed, erected, maintained, extended and removed under such conditions, standards and regulations as required by the Council.

1141.39 GENERAL REGULATIONS.

(a) Health Department Regulations. The owner is to comply with the current regulation set forth by the Summit County Public Health Department including, but not limited to Manure Storage Chapter 1220.05; and Location, Operation and Maintenance of Private Water Systems OAC 3701-28-10.

(b) Minimum Lot Size. The minimum property required for a lot or lots under the same ownership is two acres in size for not more than four large domestic animals, plus ½ acre for each additional animal, not to exceed eight animals.

(c) Housing. Structure for the housing of animals is to be at a minimum thirty-five feet from all property lines, while maintaining compliance with the regulations of the Summit County Health Department.

(d) Maximum Number of Animals. A conditional use permit is required to exceed eight large domestic animals.

(e) Fencing Required. Adequate fencing must be maintained to prevent the animals from being a nuisance to neighboring properties.

(f) Prohibitions. Exotic, dangerous and non-domesticated animals shall not be permitted.

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CHAPTER 1145

Administration and Enforcement

1145.01 Overview.

1145.02 Responsibilities and authority of the Council.

1145.03 Responsibilities and authority of the Commission.

1145.04 Responsibilities and authority of the Board.

1145.05 Responsibilities of the Zoning Officer, ~~Clerk-Treasurer~~Fiscal Officer, and Village Planner.

1145.01 OVERVIEW.

The Mayor or a duly authorized representative as specified in this chapter is hereby charged with the duty of enforcing the provisions of this Ordinance. The administration of this Ordinance is hereby vested in the following entities:

- (a) Council (Village Council).
- (b) Commission (Planning Commission).
- (c) Board (Board of Zoning Appeals).
- (d) Zoning Officer, ~~Clerk-Treasurer~~Fiscal Officer and Village Planner.

The purpose of this chapter is to set forth the responsibilities and scope of authority of these entities.

1145.02 RESPONSIBILITIES AND AUTHORITY OF THE COUNCIL.

The Council shall have the following responsibilities and authority pursuant to this Ordinance:

(a) Adoption of Zoning Ordinance and Amendments. In accordance with the intent and purposes expressed in the Preamble to this Ordinance, and pursuant to the authority conferred by the Ohio Revised Code, the Council shall have the authority to adopt this Ordinance, as well as amendments first recommended by the Commission or at a hearing or as decreed by a court of competent jurisdiction. No such ordinance or amendment which violates, differs from, or departs from the plan or report submitted by the Commission shall take effect unless it receives the affirmative vote of five Council members. No ordinance or amendment which is in accordance with the recommendations, plan or report submitted by the Commission shall be deemed to pass or take effect unless it receives the affirmative vote of four Council members.

(b) Review and Approval of Plans. Council review and approval shall be required for all planned developments, in accordance with provisions outlined in this Ordinance.

(c) Setting of Fees. The Council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the Council to set a fee for a specific permit or application, the Zoning Officer shall assess the fee based on the estimated costs of processing and reviewing the permit or application.

(d) Election of One Commission Member. In accordance with the Ohio Revised Code, one member of the Commission shall be elected by the Council to serve on the Commission for the remainder of his or her term on the Council.

(e) Approval of Board Members. In accordance with the Ohio Revised Code, members of the Board shall be appointed by the Mayor with the approval of the Council.

1145.03 RESPONSIBILITIES AND AUTHORITY OF THE COMMISSION.

The Commission shall have the following responsibilities and authority pursuant to this Ordinance.

(a) Creation. The Commission is created pursuant to the Ohio Revised Code.

(b) Membership and Operation. Members of the Commission include the Mayor, one member elected from Council pursuant to Section 1145.02(~~ed~~), and three additional members appointed by the Mayor. The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the Commission shall be in accordance with the Ohio Revised Code. The Commission by resolution shall determine the time and place of meetings. The Commission shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings and determinations. A member may serve simultaneously on the Commission and the Board, and it is suggested (although not required) that at least one such member be so appointed to both the Commission and the Board at any one time, so as to encourage communication between both bodies.

(c) Meetings. Meetings of the Commission shall be held in accordance with an adopted schedule, or at the call of the Chair, or at such other times as the Commission may specify in its rules and procedures. The Commission shall state the grounds of each determination, and shall maintain a record of its proceedings, which shall be filed in the office of the ~~Clerk-Treasurer~~Fiscal Officer.

(d) Concurring Vote Required. The concurring vote of a majority of those Commission members present at any meeting shall be necessary to take any action. The Commission's failure to achieve a concurring vote of a majority of those Commission members present at any meeting shall not be construed to be an approval or denial of any particular requested action or motion of the Commission. An abstention shall not be counted in any manner.

(e) Jurisdiction. The Commission shall discharge the following duties pursuant to this Ordinance:

(1) Formulation of Zoning Ordinance and amendments. The Commission shall be responsible for formulation of this Ordinance, review of amendments to this Ordinance, holding hearings on this Ordinance or amendments, and reporting its findings and recommendations concerning this Ordinance or amendments to the Council.

(2) Site plan review. The Commission shall be responsible for review of applications for site plan approval in accordance with provisions outlined in this Ordinance. As provided for in this Ordinance, the Commission shall be responsible for either making a determination to grant approval, approval subject to revisions, or denial of site plan approval.

(3) Conditional use review. The Commission shall be responsible for holding hearings and review of all applications for conditional use approval in accordance with provisions outlined in this Ordinance. As provided for in this Ordinance, the Commission shall be responsible for either making a determination to grant approval, approval subject to revisions, or denial of conditional use approval.

(4) Planned development review. The Commission shall be responsible for holding hearings and review of all applications for planned developments in accordance with provisions outlined in this Ordinance. The Commission shall be responsible for making a recommendation to the Council to grant approval, approval with conditions, or denial of a planned development proposal.

(5) Formulation of a long range plan. The Commission shall be responsible for formulation, adoption and regular review and updating of a Long Range Plan for the physical development of the Village, in accordance with the Ohio Revised Code.

(6) Review of matters referred by the Council. The Commission shall be responsible for review of plats or other matters relating to land development referred to it by the Council. The Commission shall recommend appropriate regulations and action on such matters. The

Commission shall respond to Council's request regarding matters involving Planning and Zoning Commission and the Zoning Ordinance within sixty days and, if so requested, by the Commission, Council may grant a reasonable extension of time.

(7) Report on operation of the Zoning Ordinance. The Commission shall periodically prepare for the Council a report on the operations of this Ordinance, including recommendations as to the enactment of amendments or supplements to this Ordinance, as well as periodic review of Board decisions.

(8) Historic Preservation Overlay District. The Commission shall serve as the Historic Preservation Review Board and have the duties and powers as outlined in Chapter 1115 of this ordinance.

(f) Decision Final. The decision of the Commission shall be final, but shall be subject to appeal pursuant to the Ohio Revised Code, except in those instances where its decision is in the form of a recommendation to the Council, and in those cases where its decision is subject to appeal to the Board pursuant to the provisions outlined in this Ordinance.

1145.04 RESPONSIBILITIES AND AUTHORITY OF THE BOARD.

The Board shall have the following responsibilities and authority pursuant to this Ordinance.

(a) Creation. The Board is created pursuant to the Ohio Revised Code.

(b) Membership and Operation. Members of the Board shall be appointed by the Mayor with the approval of the Council. Members shall serve for staggered terms of five years each. Each member shall have been a citizen of the Village for not less than one (1) year prior to appointment to the Board and shall serve until his or her successor is appointed and sworn in as a member. The Board by resolution shall determine the time and place of meetings. The Board shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings and determinations. A member may serve simultaneously on the Commission and the Board, and it is suggested (although not required) that at least one such members so appointed to both the Commission and the Board at any one time, so as to encourage communication between both bodies.

(c) Meetings. Meetings of the Board shall be held in accordance with an adopted schedule, or at the call of the Chair, or at such other times as the Board may specify in its rules and procedures. The Board shall state the grounds of each determination, and shall maintain a record of its proceedings, which shall be filed in the office of the ~~Clerk-Treasurer~~Fiscal Officer.

(d) Concurring Vote Required. The concurring vote of three members of the Board shall be necessary to reverse an order, requirement, decision or determination of a zoning official or body; to decide in favor of an applicant on any matter upon which the Board is required to act; or, to effect any variation to this Ordinance. The Board's failure to achieve a concurring vote of three members of the Board shall not be construed to be a decision in favor of or against an applicant on any matter upon which the Board is required to act. An abstention shall not be counted in any manner.

(e) Jurisdiction. The Board shall discharge the following duties pursuant to this Ordinance:

(1) Interpretation of the Zoning Map. The Board shall act on all questions as they may arise in the administration of this Ordinance, including the interpretation of the zoning district map, and the interpretation of the exact location of a boundary line between zoning districts shown on the zoning district map.

(2) Appeals. The Board shall also hear and decide appeals from and review any written order, requirement, decision, interpretation or determination made by the Commission or any

administrative or enforcement official or body charged with enforcement of this Ordinance. An appeal must be filed within 14 days of the applicable decision, and such appeal shall be made on forms made available by the Zoning Officer.

(3) Appeal of decisions of Commission on site plans and conditional uses. The Board shall also hear and decide appeals from and review any order, requirements, decision or determination made by the Commission with regard to an application for site plan or conditional use approval.

(4) Area variances. The Board shall have the authority to grant area variances, based upon a showing of “practical difficulties” and a weighing of the factors set forth in Section 1149.08 ~~(j)~~(1).

(5) Use variances. The Board shall have the authority to grant use variances, based upon a showing of “unnecessary hardships” and meeting all of the standards set forth in Section 1149.08 ~~(j)~~(2).

(6) Other variances. The Board shall have the authority to grant variances made necessary by the advances of technology being put to use in new developments, but not anticipated by the provisions of this Ordinance.

(7) Referred matters. The Board shall also hear and decide matters referred to them or upon which they are required to pass under this Ordinance.

In carrying out its duties, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal is taken and may issue or direct the issuance of a permit. The Board shall in all instances comply with provisions outlined in this Ordinance.

The Board shall not have the power to alter or change the zoning district classification of any property, and shall also not have the power to consider an appeal of any decision concerning a planned development.

(f) Decision Final. The decision of the Board shall be final, but shall be subject to appeal pursuant to the Ohio Revised Code.

1145.05 RESPONSIBILITIES OF THE ZONING OFFICER, ~~CLERK-~~ ~~TREASURER~~FISCAL OFFICER, AND VILLAGE PLANNER.

(a) Overview. Certain actions necessary for the implementation of these regulations shall be administered by the Zoning Officer (with assistance from the ~~Clerk-Treasurer~~Fiscal Officer, Village Planner, and other Village staff and consultants). In carrying out designated duties, the Zoning Officer shall be required to administer this Ordinance precisely as it is written. No Zoning Officer shall make changes or vary the terms of this Ordinance.

(b) Responsibilities of the Zoning Officer. Wherever used in this Ordinance, the Zoning Officer shall refer to the Mayor or a duly authorized representative thereof. The Zoning Officer may be a Village employee or consultant or combination thereof, and in either case shall serve at the will of the Mayor. In addition to specific responsibilities outlined elsewhere in this Ordinance, the Zoning Officer shall have the following responsibilities:

(1) Provide citizens and public officials with information relative to this Ordinance and related matters.

(2) Assist applicants in completing appropriate forms and following procedures related to site plan review, rezoning and other zoning matters outlined in this Ordinance.

(3) Determine the completeness of materials submitted for site plan review, conditional use review and planned development, and takes any action required under guidelines stated in this Ordinance.

(4) Issue Certificates of Completion in accordance with this Ordinance when all provisions of this Ordinance and other applicable ordinances and codes are met.

(5) Forward to the ~~Clerk-Treasurer~~Fiscal Officer, who will forward to the Commission completed applications for site plan review, conditional use review, planned unit development proposals, petitions for amendments to this Ordinance, and other matters that must be reviewed by the Commission.

(6) Forward to the ~~Clerk-Treasurer~~Fiscal Officer, who will forward to the Board all materials related to applications for appeals, variances, or other matters on which the Board is required to act.

(7) Forward to the ~~Clerk-Treasurer~~Fiscal Officer, who will forward to the Council all recommendations of the Commission concerning matters on which action is either mandatory or discretionary on the part of the Council.

(8) Periodically report to the Commission on the status of Village's zoning and planning administration.

(9) Maintain the current official Zoning Map of the Village and an up-to-date Zoning Ordinance text by recording all adopted map and text amendments.

(10) Maintain records as accurately as is feasible for all nonconforming uses, structures, and lots that exist on the effective date of the Zoning Ordinance, updating the record as conditions affecting the nonconforming status of such uses changes.

(11) Review and investigate permit applications to determine compliance with the provisions of this Ordinance.

(12) Issue permits when all provisions of this Ordinance and other applicable ordinances are met.

(13) Perform inspections of buildings, structures, and premises to insure that the land use or improvements to the land are and will remain in compliance with this Ordinance.

(14) Initiate and perform investigations into alleged violations of this Ordinance and proceed with appropriate corrective measures as required, including issuance of violation notices, issuance of orders to stop work, and revocation of permits.

(15) Perform other related duties required to administer this Ordinance.

(c) Responsibilities of the ~~Clerk-Treasurer~~Fiscal Officer. In addition to specific responsibilities outlined elsewhere in this Ordinance, the ~~Clerk-Treasurer~~Fiscal Officer or duly authorized representatives shall have the following responsibilities:

(1) Publish all notices required by this Ordinance.

(2) Record or cause to be recorded and prepare the official minutes of all meetings of the Commission and Board.

(3) Maintain official records and file all official minutes and documents in an orderly fashion.

(4) Perform other related duties required to administer this Ordinance.

(d) Responsibilities of the Village Planner. Whenever used in this Ordinance, the Village Planner shall refer to the Mayor or a duly authorized representative thereof. The Village Planner may be a Village employee or consultant or combination thereof, and in either case shall serve at the will of the Mayor. In addition to specific responsibilities outlined elsewhere in this Ordinance, the Village Planner shall have the following responsibilities:

(1) Prepare and administer such plans and ordinances as are appropriate for the Village and its environs, within the scope of the applicable enabling laws.

(2) Advise and assist the Commission and be responsible for carrying out the directives of the Commission.

(3) Advise and assist the Council and other authorized Village bodies or officials and be responsible for carrying out their directives.

(4) Provide citizens and public officials with information relative to this Ordinance and related matters.

(5) At request of the Village, review applications for site plan review, conditional use review, planned development proposals, and take any action required under the guidelines stated in this Ordinance.

(6) At the request of the Commission or Council, draft amendments to this Ordinance and other ordinances to accomplish the planning objectives of the Village.

(7) Periodically report to the Commission on the status of Village's zoning and planning administration.

(8) Perform other related duties required to administer these regulations.

CHAPTER 1149
Procedures

- 1149.01 Purpose.**
- 1149.02 Site plan review procedures and standards.**
- 1149.03 Minor site plan modifications/administrative review.**
- 1149.04 Application and site plan review requirements.**
- 1149.05 Standards for site plan approval.**
- 1149.06 Development and maintenance in accordance with an approved site plan.**
- 1149.07 Conditional use regulations.**
- 1149.08 Variances and appeals.**
- 1149.09 Amendments.**
- 1149.10 Permits and certificates.**
- 1149.11 Fees.**
- 1149.12 Violations/penalties.**
- 1149.13 Records.**

1149.01 PURPOSE.

It is the purpose of this chapter to provide procedures and related standards for the review and regulation of land uses and uses of structures within the Village.

1149.02 SITE PLAN REVIEW PROCEDURES AND STANDARDS.

(a) Site Plan Review Required. Except otherwise noted in this Ordinance, the development of any new use, the construction of any new structures, any change of an existing use of land or structure that impacts any requirement of this Ordinance, and all other building or development activities shall require site plan approval prior to construction and/or occupancy pursuant to this chapter. For example, site plan review is required for any of the following activities:

- (1) Erection, moving, relocation or conversion of a building or structure to create additional floor space, other than a single or two family dwelling.
- (2) Any development that would, if approved, provide for the establishment of more than one principal use on a parcel, such as a single family site condominium or similar project where a single parcel is developed to include two or more sites for detached single family dwellings.
- (3) Development of non-single family residential uses in single family districts.
- (4) Any change in land use or change in the use of a structure that potentially affects compliance with the standards set forth within this Ordinance.
- (5) The development or construction of any accessory uses or structures, except for uses or structures that are accessory to a single family dwelling.
- (6) Any use or construction for which submission of a site plan is required by any provision of these regulations.
- (7) Proposal to establish any regulated use.
- (8) A building that has been vacant for longer than 12 months.

(b) Site Plan Not Required. Notwithstanding subsection (a) hereof, site plan approval is not required for the following activities still requiring permits.

- (1) Construction, moving, relocating or structurally altering a single or two- family home, including any customary incidental accessory structures.

(2) Excavating, filling, or otherwise removing soil, provided that such activity is normally and customarily incidental to single family uses described in this subsection for which site plan approval is not required.

(3) A change in the ownership of land or a structure.

(4) A change in the use of a structure to a similar use allowed by right in the zoning district in which it is located, provided that no modification to the site is proposed or required by the standards of the regulations and that the site maintains full and continuing compliance with this Ordinance.

(c) Submission of Site Plan for Review by Commission. In order to initiate formal review by the Commission, the applicant is required to submit the following materials to the Zoning Officer:

(1) Three completed and signed copies of an application for Site Plan Review;

(2) Eight individually folded copies of the site plan; one each for the Solicitor; ~~Clerk~~ Treasurer ~~Fiscal Officer~~ file; Zoning Officer; and each member of the Planning Commission.

(3) Evidence that the plan has been submitted for review to affected and applicable county, state and federal agencies; and

(4) Any required applicable fees.

These materials must be submitted to the Zoning Officer in sufficient time to allow review by Village staff and consultants prior to the Commission meeting at which the review will occur. The Zoning Officer will submit materials to the ~~Clerk~~ Treasurer ~~Fiscal Officer~~ within 30 days after the date of filing. The Zoning Officer shall determine if additional time is needed based on the scope and complexity of the proposal.

(d) Distribution of Plans. Upon submission of all required application materials and following completion of all items required, the proposed site plan shall be placed on the agenda of a special or regular meeting of the Commission. The site plan and application shall be distributed by the ~~Clerk~~ Treasurer ~~Fiscal Officer~~ to appropriate Village officials and the Village Planner for review. If deemed necessary by the Zoning Officer, the plans may also be submitted to the Village Engineer for review.

(e) Review and Action.

(1) Informal review of conceptual plans by Village staff. Applicants are encouraged to meet with the Village Staff, including but not limited to the Village Engineer, Village Planner, and such other persons as determined by the Zoning Officer, for informal review of conceptual site plans. The purpose of this informal review is to discuss applicable standards and technical issues, comment on the project's compliance with the standards of this Ordinance, and determine the appropriate type of review process. The applicant or Village Planner may also request input from other Village staff or consultants. Conceptual plans should, at minimum, include the proposed use, building footprint, existing conditions, general site layout and conceptual grading. Conceptual plan review comments are non-binding, and should be considered by the applicant to be suggestions and recommendations only. A review fee may be required for conceptual plan review, as determined by Village.

(2) Informal review by the Commission. The Commission may request an informal workshop and formal regular or special meetings on a proposed project. The meeting at which a site plan proposal is considered shall be a workshop meeting of the Commission. The Commission shall review the reports of the appropriate Village staff and consultants and discuss the findings and recommendations with the applicant. No formal action on a site plan will occur at the workshop meeting.

(3) Request for revisions. Upon review of the site plan proposal at a workshop, the Commission may require the applicant to revise the plans or supply additional information. The applicant shall submit any requested revised plans for review prior to formal action being taken. All review fees must be paid prior to any review. It shall be the applicant's responsibility to consult with Village staff and consultants during this revision process. Action on the site plan shall remain tabled until the next regular Commission meeting following review of a substantially complete plan at a Commission workshop.

(4) Public hearing. A site plan involving use(s) subject to conditional use approval, planned residential development, or planned unit developments, shall require a public hearing. After payment of appropriate fees, the Commission shall set the date of the public hearing during a regular or special meeting of the Planning Commission. No hearing may be held before the Commission has had an opportunity to review the plan at a workshop session.

(5) Final action. The Commission shall review the site plan, together with any reports and recommendations from staff, consultants and other reviewing agencies and any public comments. The Commission shall then make a determination based on the requirements and standards of this Ordinance. The Commission is authorized to table, approve, approve subject to conditions or deny the site plan as follows:

A. Table. Upon determination by the Commission that a site plan is not sufficiently complete for approval or denial, or upon a request by the applicant, the Commission may table the item until a later meeting.

B. Denial. Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance, or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied. If a site plan is denied, a written record shall be provided to the applicant listing the reasons for such denial. Failure of the applicant, or the applicant's designated representative, to attend two scheduled meetings shall be grounds for the Commission to deny approval of the site plan.

C. Approval. Upon determination that a site plan is in compliance with the requirements of this Ordinance and other applicable ordinances and laws, the site plan shall be approved.

D. Approval subject to conditions. The Commission may approve a site plan, subject to one or more conditions necessary to address minor modifications to the site plan, ensure that public services and facilities can accommodate the proposed use, protect significant natural features, ensure compatibility with adjacent land uses, or otherwise meet the intent and purpose of this Ordinance.

The applicant shall re-submit the site plan for final approval by the Commission after conditions have been met. The Commission may waive its right to review the revised plan, and delegate authority to the Zoning Officer or staff to review and approve a revised site plan on the Commission's behalf after required conditions have been addressed. The Commission may require that the Zoning Officer secure a favorable recommendation from the Village Planner and/or Village Engineer prior to final approval of the revised plan.

(f) Appeal of Decision. The applicant, or any interested party, may appeal the decision of the Commission on a site plan to the Board. Such appeal shall proceed in accordance with the procedures outlined for appeals in this Ordinance.

(g) Recording of Site Plan Action. Commission action on the site plan shall be recorded in the Commission meeting minutes, stating the name and location of the project, the proposed use, the most recent plan revision date, and the conditions or grounds for the Commission's action. The

Commission secretary shall clearly mark three copies of the application and final site plans APPROVED or DENIED, as appropriate, with the date that action was taken. One marked copy will be returned to the applicant and the other two copies will be kept on file by the Village.

(h) Procedure After Site Plan Approval. Any property owner who fails to maintain an approved site plan in full compliance with approvals granted by the Commission according to the provisions of this Ordinance, shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the penalties stated herein.

1149.03 MINOR SITE PLAN MODIFICATIONS/ADMINISTRATIVE REVIEW.

Minor Site Plan Modifications: If a minor site plan modification is made, an applicant may have an administrative review and not be required to go before the Commission to amend the site plan. Variances, planned residential developments, planned unit developments, or the expansion of a nonconforming use are not eligible for an administrative review. Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file in the office of the Zoning Officer. The Zoning Officer shall have the authority to require a new site plan for the purposes of clarity. The Commission shall be advised of all minor site plan modifications approved by the Zoning Officer, and such modifications shall be noted on the site plan and in the minutes of the Commission.

Administrative review: The following activities shall be eligible for administrative plan review in accordance with this chapter:

(a) Minor changes during construction due to unanticipated site constraints, or to improve safety, protect natural features, or comply with unanticipated requirements of outside agencies.

(b) Landscape changes to similar species consistent with the standards of this Ordinance that do not reduce the total amount of landscaping on the site.

(c) Changes to a structure or site required by the Zoning Officer for safety considerations.

(d) Establishment of home occupations specifically listed as a permitted use.

(e) Bike path, pathway or sidewalk construction or relocation.

(f) Grading, excavation, filling, soil removal, creation of ponds, or clearing of trees ~~within an area up to 100 square feet~~ on a lot occupied by a residential dwelling that does not change the grade of the property or result in the flow of storm water to affect the adjoining property.

(g) Re-occupancy of a vacant building that has been unoccupied for less than 12 months.

(h) Replacing an existing sign due to damage, theft or other situation, which was approved by the Commission with an identical sign.

1149.04 APPLICATION AND SITE PLAN REVIEW REQUIREMENTS.

The following information shall be included with all applications for site plan review under this Ordinance, except where the Commission determines that certain information is not necessary or applicable to the review:

(a) Application Form. The application form shall be completed by the applicant and contain, at minimum, the following information:

(1) Applicant's name and address.

(2) Name and address of property owner, if different from applicant.

(3) Common description of property and complete legal description.

(4) Dimensions of land and total acreage.

(5) Existing zoning.

(6) Proposed use of land and name of proposed development, if applicable.

- (7) Proposed buildings to be constructed, including square feet of gross floor area.
- (8) Project value.
- (9) Employment opportunities created, if applicable.

(10)-Any other data required to calculate parking requirements, if applicable

(b) Site Plan Descriptive and Identification Data. Site plans shall consist of an overall plan for the entire development, drawn to a scale of not less than one-inch equals 50 feet for property less than three acres, and one inch equals 100 feet for property three acres or more in size. Sheet size shall be at least 24 inches by 36 inches. The following descriptive and identification information shall be included on all site plans:

- (1) Applicant's name, address and telephone number.
- (2) Title block indicating the name of the development.
- (3) Scale.
- (4) Northpoint.
- (5) Dates of submission and revisions (month, day, year).
- (6) Location map drawn to scale with Northpoint.
- (7) Legal and common description of property.
- (8) The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel, the plan should indicate the boundaries of total land holding.

(9) Identification and seal of architect or engineer who prepared plan. The seal of a land surveyor may be accepted if the site plan involves no building or engineering. The seal of a landscape architect may be accepted on landscaping plans.

- (10) Written description of proposed land use.
- (11) Zoning classification of petitioner's parcel and all abutting parcels.
- (12) Proximity to section corner and major thoroughfares.
- (13) Notation of any variances which have or must be secured.
- (14) Net acreage (minus right-of-way) and total acreage, to the nearest 1/10 acre.

(c) Site Data.

- (1) Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.
- (2) Front, side, and rear setback dimensions.
- (3) Topography on the site and within 100 feet of the site at two foot contour intervals, referenced to a U.S.G.S. benchmark.
- (4) Proposed site plan features, including buildings, roadway widths and names, and parking areas.
- (5) Dimensions and centerlines of existing and proposed roads and road rights- of-way.
- (6) Acceleration, deceleration and passing lanes, where required.
- (7) Proposed location of driveway entrances and on-site driveways.
- (8) Cross-section of any proposed roads.
- (9) Location of existing drainage courses, floodplains, lakes and streams, with elevations.
- (10) Location of existing and proposed interior sidewalks and sidewalks in the right-of-way.
- (11) Exterior lighting locations and method of shielding lights from shining off the site.
- (12) Trash receptacles locations and methods of screening, if applicable.
- (13) Transformer pad location and method of screening, if applicable.
- (14) Layout of off-street parking areas and indication of total number of spaces and typical dimensions of spaces.

- (15) Method of surfacing driveways, parking areas, and other vehicle maneuvering areas.
 - (16) Information needed to calculate required parking in accordance with Zoning Ordinance standards.
 - (17) The location of lawns and landscaped areas, including required landscaped greenbelts.
 - (18) Landscape plan, including location, spacing and types of shrubs, trees, and other live plant material.
 - (19) Location, sizes and types of existing trees five inches or greater in diameter, measured at one foot off the ground, before and after proposed development.
 - (20) Tree replacement plan, if required
 - (21) Cross-section of proposed berms, if any.
 - (22) Location and description of all easements for public rights-of-way, utilities, access, shared access, and drainage.
 - (23) Designation of fire lanes.
 - (24) Loading/unloading area.
 - (25) The location of any outdoor storage of materials and the manner by which it will be screened.
- (d) Building and Structure Details.
- (1) Location, height and outside dimensions of all proposed buildings or structures.
 - (2) Indication of the number of stories and number of commercial or office units contained in the building.
 - (3) Building floor plans.
 - (4) Total floor area.
 - (5) Location, size, height and lighting of all proposed signs.
 - (6) Proposed fences and walls, including typical cross-section and height above the ground on both sides.
 - (7) Building facade elevations, drawn to a scale of one-inch equals four feet, or another scale approved by the Zoning Officer and adequate to determine compliance with the requirements of this Ordinance. Elevations of proposed buildings shall indicate type of building materials, roof design, projections, canopies, awnings and overhangs, screen walls, and accessory buildings and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers.
- (e) Information Concerning Utilities, Drainage and Related Issues.
- (1) Schematic layout of existing and proposed sanitary sewers and septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to serve the site; storm sewers and drainage facilities, including the location of retention/detention facilities; and, the location of gas, electric and telephone lines.
 - (2) Indication of site grading and drainage patterns.
 - (3) Types of soils and location of floodplains and wetlands, if applicable.
 - (4) Soil erosion and sedimentation control measures.
 - (5) Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways and parking lots.
 - (6) Assessment of potential impacts from the use, processing or movement of hazardous materials or chemicals, if applicable.
- (f) Information Applicable to Multiple-Family Residential Development, in addition to the other site plan requirements:

- (1) The number and location of each type of residential unit (one bedroom units, two bedroom units, etc.).
 - (2) Density calculations by type of residential unit (dwelling units per acre).
 - (3) Lot coverage calculations-, including net lot coverage, open space and maximum lot coverage.
 - (4) Floor plans of typical buildings with square feet of floor area.
 - (5) Garage and carport locations and details, if proposed.
 - (6) Pedestrian circulation system.
 - (7) Location, dimensions and names of roads and internal drives.
 - (8) Community building location, dimensions, floor plans, and facade elevations, if applicable.
 - (9) Swimming pool fencing detail, including height and type of fence, if applicable.
 - (10) Location and size of recreation open areas.
 - (11) Indications of type of recreation facilities proposed for recreation area.
 - (12) Colored rendering of typical building.
- (g) Information Applicable to Commercial and Industrial Development. In addition to the other site plan requirements:
- (1) Type of commercial or industrial use being proposed.
 - (2) Indication of the estimated number of employees.
- (h) Non-Applicable Items. If any of the items listed are not applicable to a particular site, the site plan shall provide a list of each item considered not applicable, and the reason(s) why each listed item is not considered applicable.
- (i) Other Required Data. Other data may be required if deemed necessary by the Zoning Officer or the Commission to determine compliance with the provisions in this Ordinance. Such information may include traffic studies, market analysis, environmental assessments, condominium documents, and evaluation of the demand on public facilities and services.

1149.05 STANDARDS FOR SITE PLAN APPROVAL.

The following criteria shall be used as a basis upon which site plans will be reviewed and approved, approved with conditions or denied:

- (a) Adequacy of Information and Compliance with Ordinance Requirements. The site plan includes all required information in a complete and understandable form that provides an accurate description of the proposed uses, structures and site improvements. The site plan complies with all applicable Ordinance requirements, including but not limited to minimum floor space, height of building, lot size, yard space and density.
- (b) Site Design Characteristics. All elements of the site design are harmoniously and efficiently organized in relation to topography, parcel configuration, adjacent properties, traffic operations, adjacent streets and driveways, pedestrian access and the type and size of buildings. The site is designed in a manner that promotes the normal and orderly development of surrounding property for uses permitted by this Ordinance.
- (c) Site Appearance and Coordination. Site elements are designed and located so that the proposed development is aesthetically pleasing and harmonious with adjacent existing or future developments. All site features, including vehicle and pedestrian circulation, building orientation, landscaping, lighting, utilities, recreation facilities, and open space are harmonious and coordinated with adjacent properties.

(d) Preservation of Site Features. The site design preserves and conserves natural, cultural, historical and architectural site features, including, but not limited to, architecturally or historically significant buildings, archeological sites, wetlands, topography, tree-rows and hedgerows, wooded areas, and significant individual trees.

(e) Pedestrian Access and Circulation. The arrangement of public or common ways for pedestrian circulation connects to existing or planned sidewalks or bicycle pathways in the area and is insulated as completely as possible from the vehicular circulation system. The site design complies with applicable federal, state and local laws and regulations regarding barrier-free access.

(f) Vehicular Access and Circulation. Drives, streets, parking, site access and other vehicle-related elements are designed to minimize traffic conflicts on adjacent streets and promote safe and efficient traffic circulation within the site.

(g) Building Design and Architecture. Building design and architecture relate to and are harmonious with the surrounding neighborhood with regard to texture, scale, mass, proportion, materials and color, and conforms to Historic Preservation Overlay District standards, if applicable.

(h) Parking and Loading. Off-street parking lots and loading zones are arranged, located and designed to accommodate the intensity of proposed uses, minimize conflicts with adjacent uses, enhance the character of the neighborhood, and promote shared-use of common facilities by adjoining properties.

(i) Landscaping and Screening. Landscaping and screening are provided in a manner that adequately buffers adjacent land uses and screens off-street parking, mechanical appurtenances, loading and unloading areas and storage areas from adjacent residential areas and public rights-of-way.

(j) Exterior Lighting. All exterior lighting fixtures are designed, arranged and shielded to minimize glare and light trespass, prevent night blindness and vision impairments, and maximum security.

(k) Impact Upon Public Services. The impact upon public services will not exceed the existing or planned capacity of such services, and adequate public services (including but not limited to utilities (water, sanitary & storm sewers, county drains, natural gas, electricity and telephone), streets, police and fire protection, public schools and sidewalks/bicycle paths) are available or provided to the site, and are designed with sufficient capacity and durability to properly serve the development.

(l) Drainage and Soil Erosion. Drainage systems, stormwater facilities, and soil erosion, sedimentation and dust control measures are arranged, located and designed to promote shared-use of common facilities by adjoining properties. Adjoining properties, public rights-of-way, capacity of the public storm drainage system, and local streams will not be adversely affected by stormwater runoff and sedimentation.

(m) Emergency Access and Vulnerability to Hazards. All sites and buildings are designed to allow convenient and direct emergency access, and the level of vulnerability to injury or loss from incidents involving hazardous materials or processes will not exceed the Village's emergency response capabilities.

1149.06 DEVELOPMENT AND MAINTENANCE IN ACCORDANCE WITH AN APPROVED SITE PLAN.

It shall be the responsibility of the owner of the property for which site plan approval has been granted to develop, improve and maintain the site, including the use, buildings and all site elements in accordance with the approved site plan and all conditions of approval, until the property is razed or a new site plan is approved. Failure to comply with the provisions of this section shall be a violation of this Ordinance and shall be subject to the same penalties appropriate for a use violation. The Zoning Officer shall make periodic on-site investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall constitute grounds for the Commission to rescind site plan approval.

1149.07 CONDITIONAL USE REGULATIONS.

(a) Intent. The procedures and standards in this section are intended to provide a consistent and uniform method for review of conditional use proposals. Conditional uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as permitted uses in a particular zoning district. These review procedures and standards are intended to accomplish the following purposes:

(1) Ensure full compliance with the standards contained in this Ordinance and other applicable local ordinances, and state and federal laws.

(2) Achieve efficient use of the land.

(3) Prevent adverse impact on adjoining or nearby properties.

(4) Protect natural resources.

(5) Facilitate development in accordance with the Village's land use objectives.

(6) Minimize and mitigate adverse impacts upon the Village's ability to provide services.

(b) Procedures and Requirements. Conditional use applications shall be submitted in accordance with the following procedures and requirements, which provide for review and action by the Commission. Although a site plan must be submitted with a conditional use application, approval of the conditional use is required prior to site plan approval.

(1) Applicant eligibility. The application shall be submitted by the owner of an interest in land for which conditional use approval is sought, or by the owner's designated agent. The applicant or a designated representative should be present at all scheduled review meetings or consideration of the proposal may be tabled.

(2) Application forms and documentation. The application for conditional use shall be made on the forms and according to the guidelines in this Ordinance, as provided by the Zoning Officer.

(3) Application data requirements. A site plan shall be submitted with the conditional use application. In addition, the applicant shall complete any forms and supply any other data that may be required by the Commission, Council, or Village staff to make the determination required herein. The applicant shall provide all necessary written or graphic materials to document compliance with the standards set forth in this Ordinance, and other regulatory guidelines specified for particular conditional uses elsewhere in this Ordinance.

(4) Site plan preparation. The site plan shall be prepared in the manner specified in this Ordinance and on the conditional use application form. A site plan which does not meet the stipulated requirements shall be considered incomplete and shall therefore not be subject to formal review. The Zoning Officer may waive the site plan requirement if it is deemed it is not necessary to evaluate the application.

(5) Submission of a completed plan. The conditional use application materials, required fees, and eight (8) copies of the completed site plan and application shall be submitted to the Zoning Officer.

(6) Review by the Village officials. The Zoning Officer and other appropriate Village officials shall determine the completeness of the site plan and application materials; and prepare an itemized list, which shall specify any deficiencies in the site plan and application materials; and make recommendations as appropriate.

(7) Submission of a revised plan and conditional use application. The applicant shall revise the site plan and application materials, based on the recommendations set forth in the Zoning Officer's review. The applicant shall then submit eight (8) copies of the revised plan for further review by staff and the Commission.

(8) Commission consideration. After all application materials have been received and applicable fees paid, the application shall be reviewed in accordance with following procedures:

A. Acceptance for processing. The application shall be placed on the agenda of the next available scheduled Commission meeting and a public hearing shall be scheduled.

B. Public hearing. Notice of the public hearing shall be posted on the Village website and at the Village posting locations and sent by mail or personal delivery to the owners of property for which special approval is being considered and to all property owners adjacent to or across the street from the property in question at least ten days prior to the date of the public hearing. ~~Notice of the public hearing shall be published in a newspaper of general circulation in the Village, and sent by mail or personal delivery to the owners of property for which special approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet.~~

C. Commission review. Following the public hearing, but not necessarily at the same meeting, the conditional use proposal and plan shall be reviewed by the Commission, based on the standards and regulations in this section.

D. Plan revision. If the Commission determines that revisions are necessary to bring the conditional use proposal into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised application and site plan. Following submission of revised application materials, the conditional use proposal shall be placed on the agenda of the next available scheduled meeting of the Commission for further review and possible action.

(9) Commission determination. The Commission shall review the application for conditional use, together with the public hearing findings and reports and recommendations from the Zoning Officer, Village Planner, Village Engineer, public safety officials and other reviewing agencies. The Commission shall then make a determination on the conditional use application, based on the requirements and standards of this Ordinance. The Commission may approve, approve with conditions, or deny a conditional use request as follows:

A. Approval. Upon determination by the Commission that the final plan for conditional use is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, approval shall be granted.

B. Approval with conditions. The Commission may impose reasonable conditions with the approval of a conditional use proposal, to the extent authorized by law. Conditions imposed shall meet all of the following requirements:

1. Conditions shall be designed to protect natural resources, the health, safety and general welfare and the social and economic well-being of those who will use the land use or activity under

consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Conditions shall be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

3. Conditions shall be necessary to meet the intent and purpose of this Ordinance, related to the standards established in this Ordinance for the land use or activity under consideration, related to the standards for granting a conditional use and necessary to ~~insure~~ensure compliance with those standards.

C. Denial. Upon determination by the Commission that a conditional use proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, general welfare, and orderly development of the Village, the conditional use proposal shall be denied.

(10) Appeal of decision. The applicant, or any interested party, may appeal the decision of the Commission on a conditional use to the Board. Such appeal shall proceed in accordance with the procedures outlined for appeals in this Ordinance.

(11) Recording of Commission action. Each action taken with respect to a conditional use shall be duly recorded in the minutes of the Commission. The minutes shall record the findings of fact relative to each conditional use proposal, the grounds for the action taken, and any conditions imposed in conjunction with approval.

(12) Effect of approval. Upon approval, a conditional use shall be deemed a conforming use permitted in the district in which it is proposed, subject to any conditions imposed and final approval of the site plan. Such approval shall affect only the lot or portion thereof on which the proposed use is located.

(13) Transferability. Conditional use approval shall apply only to the owner of the lot, and to the tenant if different from the owner, at the time of approval. Transfer of property ownership and/or transfer of tenancy shall terminate a conditional use approval, and a new approval shall be required in order to re-establish or continue the previously approved use under new ownership and/or tenancy.

(14) Application for a building permit. Prior to issuance of a building permit, the applicant shall submit proof of the following:

- A. Final approval of the conditional use application.
- B. Final approval of the site plan, if required.
- C. Final approval of the engineering plans, if required.
- D. Acquisition of all other applicable Village, county, or state permits

(15) Expiration of conditional use approval. If construction has not commenced within 24-12 months of final approval, the approval becomes null and void and a new application for conditional use shall be required. Upon written request from the applicant, a 12 month extension may be granted by the Commission, if it finds that the approved conditional use application and site plan adequately represent current conditions on and surrounding the site. The written request for extension must be received prior to the site plan expiration date or a new application for conditional use review will be required.

(16) Revocation of conditional use approval. Approval of a conditional use proposal and site plan may be revoked by the Commission if construction is not in conformance with the approved plans. In such a case, the Zoning Officer shall ask that the conditional use proposal be placed on the agenda of the Commission. Written notice shall be provided to the applicant at least five days prior to the meeting at which the case will be considered. The applicant shall be given the

opportunity to present information and to answer questions. The Commission, as appropriate, may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.

~~—(17) Performance guarantee. The Commission may require that a performance guarantee be deposited with the Village to ensure faithful completion of the improvements. Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to: landscaping, open space improvements, streets, lighting, and sidewalks. The performance guarantee shall comply with the requirements outlined in this Ordinance.~~

(c) Standards for Granting Conditional Use Approval. Approval of a conditional use proposal shall be based on the determination that the proposed use will comply with ~~all~~ applicable requirements of this Ordinance, including site plan review criteria set forth for applicable site development standards for specific uses set forth elsewhere in this Ordinance, and the following standards:

(1) Compatibility with adjacent uses. The proposed conditional use shall be designed, constructed, operated, and maintained to be compatible with uses on surrounding land. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:

A. The location and screening of vehicular circulation and parking areas in relation to surrounding development.

B. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.

C. The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

D. The bulk placement and materials of construction of the proposed use in relation to surrounding uses.

(2) Compatibility with the Long Range Plan. The proposed conditional use shall be consistent with the general principles and objectives of the Long Range Plan.

(3) Compliance with applicable regulations. The proposed ~~conditional~~conditional use shall be in compliance with all applicable federal, state, and local laws and ordinances.

(4) Use of adjacent property. The proposed conditional use shall not interfere with the use and enjoyment of adjacent property.

(5) Public services. The proposed conditional use shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public roads, police and fire protection services, and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed. ~~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 community.~~

(6) Impact of traffic. The location of the proposed conditional use within the zoning district shall minimize the impact of traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:

A. Proximity and access to major thoroughfares.

B. Estimated traffic generated by the proposed use.

C. Proximity and relation to intersections.

D. Adequacy of driver sight distances.

E. Location of and access to off-street parking.

F. Required vehicular turning movements.

G. Provision of pedestrian traffic.

(7) Enhancement of surrounding environment. The proposed conditional use shall provide the maximum feasible enhancement of the surrounding environment, and shall not unreasonably interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. In determining whether this requirement has been met, consideration shall be given to:

A. The provision of landscaping and other site amenities. Provision of additional landscaping over and above the specific requirements of this Ordinance may be required as a condition of approval of a conditional use.

B. The bulk, placement and materials of construction of proposed structures in relation to surrounding uses.

(8) Impact on public health, safety and general welfare. The proposed conditional use shall not involve any activities, processes, materials, equipment or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety and general welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare and light.

(9) Isolation of existing uses. The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by non-residential development, and further, the location of the proposed conditional use shall not result in a small non-residential area being substantially surrounded by incompatible uses.

1149.08 VARIANCES AND APPEALS.

(a) Intent. The purpose of this section is to provide guidelines and standards to be followed by the Board in considering requests for variances and appeals, where the jurisdiction of the Board has been established by these regulations or by the Ohio Revised Code.

(b) Purpose of Variances and Appeals.

(1) Appeals. Generally, an appeal may be taken to the Board, by a person, or by any office, department, board or bureau aggrieved by a written order, requirement, decision, interpretation or determination made by the Commission or any administrative or enforcement official or body charged with enforcement of this Ordinance. An appeal must be filed within 14 days of issuance of the applicable written decision, and such appeal shall be made on forms made available by the Zoning Officer.

(2) Variances. Where there are “practical difficulties” (for area variances) or “unnecessary hardships” (for use variances) preventing a property owner from conforming with the strict letter of this Ordinance, the Board shall have the power to authorize variances from the standards in this Ordinance, with such conditions and safeguards as it may determine to be necessary so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done.

(c) Stay of Proceedings. An appeal to the Board shall stay enforcement proceedings in furtherance of the appealed action, unless the Zoning Officer certifies to the Board that by reason of the facts stated in the appeal, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed other than by an injunction granted by the Court of Common Pleas. A stay of proceedings shall not stay the Village’s authority to issue a stop work order on a project that may be in progress and being performed in a manner that is not in conformance with applicable ordinances and regulations. Also, it shall not stay a project when the appeal is brought by a third-party contesting the issuance of a permit.

(d) Application. Variances and appeals for which Board action is sought shall be commenced by a person filing an application to the Board on forms as specified by the Zoning Officer and accompanied by required fees. The application shall specify the grounds upon which the appeal is based and shall contain ~~a notarized~~ a signature of the property owner or owner's agent, and the signature of the applicant if different than the owner. Applications involving a request for a variance shall specify the section number(s) containing the standards from which the variance is sought and the nature and extent of such variance.

(e) Plot Plan Requirements. Applications involving a specific site shall be accompanied by a plot plan drawn to scale that includes the following information, where applicable:

- (1) Applicant's name, address and telephone number.
- (2) Property tax identification number, scale, north point, and dates of submission and revisions.
- (3) Zoning classification of petitioner's parcel and all abutting parcels.
- (4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 50 feet of the site.
- (5) For variances requested from any dimensional standard of this Ordinance, the plot plan shall include verified measurements of existing conditions and the proposed dimensions and calculations regarding the specific standards from which the variance is sought.
- (6) Any additional information required by the Zoning Officer or the Board to make the determination requested herein.

Where an application to the Board involves a variance sought in conjunction with a site plan or conditional use review by the Commission, the application data requirements for the other applicable review as set forth in this Ordinance shall be followed.

(f) Use Variance Requirements. Applications involving requests for a use variance shall be accompanied by the following information:

- (1) A plot plan as required by 1149.08 (e) if the information is deemed necessary by the Zoning Officer to assist the Board in evaluating the request.
- (2) A description of the use variance requested and the applicant's reasons for not complying with the requirements of this ordinance.
- (3) Any additional information required by the Zoning Officer or the Board to make the determination requested herein.

(fg) Review. The Zoning Officer shall forward the application, along with any supporting materials and plans to the Board. The Clerk of the Board shall fix a reasonable time for the hearing of the appeal or variance. Notice of the public hearing shall be posted on the Village website and at the Village posting locations and sent by mail or personal delivery to the owners of property for which special approval is being considered and to all property owners adjacent to or across the street from the property in question at least ten days prior to the date of the public hearing. Notice of the public hearing shall be published in a newspaper of general circulation in the Village, and sent by mail or personal delivery to the owners of property for which special approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. At the hearing, a party may appear in person or by agent or by attorney.

(gh) Decision. The concurring vote of three members of the Board shall be necessary to reverse an order, requirement, decision or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass under, or to effect any variation in an ordinance adopted pursuant to the Ohio Revised Code. The Board may

reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, in accordance with the guidelines set forth herein. To that end, the Board shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. With an affirmative decision, the Board may impose conditions. The decision of the Board shall be final, but any person having an interest affected by a decision of the Board may appeal to the Court of Common Pleas.

(hi) Record of Decision and Order. The Board shall prepare and retain a record of each appeal, and shall base its decision on this record. This record shall include:

(1) The relevant administrative records and the administrative orders issued thereon relating to the appeal.

(2) The notice of the appeal.

(3) Such documents, exhibits, plans, photographs, or written reports as may be submitted to the Board for its consideration.

The written findings of fact, the decisions, and the conditions imposed by the Board in acting on the appeal shall be entered into the official record, after being signed by the Secretary of the Board. The final written decision shall constitute the final decision of the Board. Upon signing the final written decision, the Secretary of the Board shall serve by ~~certified-mail, return receipt requested,~~ a copy of the final decision on any matter upon the applicant and other parties- in-interest.

(ij) Approval Period. If construction has not commenced within ~~24~~12 months after the Board grants a variance to permit the erection or alteration of a building, then the variance becomes null and void. The period of approval may be automatically extended by 12 months if the variance was sought in conjunction with a site plan for which approval has been extended by the Commission.

(jk) Standards for Variances and Appeals. Variances and appeals shall be granted only in accordance with and based on the findings set forth in this section. The burden of proof for variances and appeals shall be upon the applicant. The extent to which the following factors, standards, and criteria apply to a specific case shall be determined by the Board.

(1) Factors applicable to area variances (“practical difficulties”). The applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. The Board shall weigh the following factors to determine whether an area variance should be granted:

A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

B. Whether the variance is insubstantial;

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

E. Whether the property owner purchased the property with knowledge of the zoning restrictions;

F. Whether the property owner’s predicament feasibly can be obviated through some method other than a variance; and/or

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

(2) Standards applicable to use variances (“unnecessary hardships”). The applicant shall demonstrate by clear and convincing evidence that all of the following standards have been met in order to justify the granting of a use variance, as determined by the Board:

- A. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
- B. The hardship condition is not created by actions of the applicant;
- C. The granting of the variance will not adversely affect the rights of adjacent owners;
- D. The granting of the variance will not adversely affect the public health, safety or general welfare;
- E. The variance will be consistent with the general spirit and intent of this Ordinance;
- F. The variance sought is the minimum which will afford relief to the applicant; and
- G. There is no other economically viable use which is permitted in the zoning district.

(3) Criteria applicable to appeals. The Board shall reverse an order of the Commission or a zoning official only if it finds that the action or decision appealed:

- A. Was arbitrary or capricious; or
- B. Was based on an erroneous finding of a material fact; or
- C. Was based on erroneous interpretation of this Ordinance or zoning law; or
- D. Constituted an abuse of discretion.

1149.09 AMENDMENTS.

(a) Initiation of Amendment. The Council may from time to time, at its own initiative or upon recommendation from the Commission or on petition, amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in the Ohio Revised Code. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.

(b) Application for Amendment. A petition for an amendment to the text of this Ordinance or an amendment to change the zoning classification of a particular property shall be commenced by filing a petition with the Zoning Officer, on the forms and accompanied by the fees specified. The petition shall explicitly describe the proposed amendment and shall be signed by the applicant. Petitions for rezoning of a specific site shall be accompanied by a plot plan or survey, which shall contain the following information:

- (1) Applicant’s name, address and telephone number.
- (2) Scale, north point, and dates of submission and revisions.
- (3) Zoning classification of petitioner’s parcel and all abutting parcels.
- (4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
- (5) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
- (6) Location of existing drainage courses, floodplains, lakes and streams, and woodlots.
- (7) All existing and proposed easements.
- (8) Location of sanitary sewer systems, existing and proposed.
- (9) Location and size of watermains and building service leads, existing and proposed

(c) Commission Review. After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures. The petition shall be placed on the agenda of the next regularly scheduled meeting

of the Commission. The Commission shall review the petition for amendment in accordance with the procedures set forth in the Ohio Revised Code.

(d) Action by the Commission and Council. The Commission shall make written findings of fact which it shall transmit together with any comments received, and its recommendations to the Council. The Council shall hold a public hearing in accordance with procedures set forth in the Ohio Revised Code. The Council may by majority vote of its membership:

(1) Adopt the proposed amendment.

(2) Reject the proposed amendment.

(3) Refer the proposed amendment back to the Commission for further recommendation within a specified time period. Thereafter, the Council may either adopt the amendment with or without the recommended revisions, or reject it.

(e) Reconsideration of a Proposed Amendment. No application for a map amendment which has been denied by the Council shall be reconsidered unless there have been changes in the facts, evidence and/or conditions in the case. Determination of whether there have been such changes shall be made by the Commission at the time the application is submitted for processing.

(f) Review Considerations. The Commission and Council shall, at minimum, consider the following before taking action on any proposed amendment:

(1) Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?

(2) Will the proposed amendment further the long range planning goals of the Village?

(3) Have conditions changed since the Zoning Ordinance was adopted, or was there a mistake in the Zoning Ordinance, that justify the amendment?

(4) Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather than merely grant special privileges?

(5) Will the amendment result in unlawful exclusionary zoning?

(6) Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?

(7) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?

(8) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?

(g) Record of Amendment Adoption. A record of all amendments approved by the Council shall be maintained by the Village. A master Zoning Map shall be maintained by the Zoning Officer, which shall identify all map amendments by number and date.

1149.10 PERMITS AND CERTIFICATES.

(a) Permit Required. A permit or other appropriate permit shall be required as follows:

(1) Prior to the erection, alteration, repair, renovation, demolition, or removal of any building or structure, including fences, walls or hedges.

(2) Prior to the establishment of a new use, whether the land is currently vacant or if a change in land use is proposed.

(3) Prior to any change in use of an existing building or structure to a different class or type.

(b) Permit Application Requirements. No permit shall be issued for construction, alteration, or remodeling of any building or structure until an application has been submitted, showing that the proposed improvements conform with the provisions of this Ordinance and with the Building Code. Applications for permits required by this section shall be filed with the Zoning Officer on

forms prescribed by that Official. Each application shall be accompanied by a written explanation of the proposed improvements, and, if applicable, a plan of the site drawn to scale. A site plan submitted and approved by the submitted plans shall be of sufficient detail for the Official to determine whether the proposed improvements conform with this Ordinance, the Building Code, and other applicable laws and ordinances. The Commission in accordance with this Ordinance shall satisfy the requirements of this section. At a minimum, the applicant must supply the following information:

- (1) The location, dimensions and parcel tax identification number of the land parcel.
- (2) Existing buildings or structures, plus the shape, size and location of all buildings or structures to be erected, altered or moved.
- (3) The existing and intended use of the parcel.
- (4) On residential parcels, the number of dwelling units contained within each building.
- (5) The name and address of all persons having an ownership interest in the premises upon which the improvements are proposed, together with a written statement from all such persons indicating knowledge of and agreement with the proposal.
- (6) All information required by the Building Code.
- (7) Evidence of approval from the Summit County General Health District or the Ohio Environmental Protection Agency, as may be applicable, for location of a well and septic system on the parcel, or evidence of meeting all applicable Health District and Building Code requirements for a parcel which has been previously approved for a well and septic system.
- (8) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of these regulations will be complied with.

(c) Conformity with Applicable Ordinances and Approved Plans. A permit shall be issued within thirty (30) days only if, after thorough inspection of the application materials and plans, the Zoning Officer finds that the proposal conforms with this Ordinance, other applicable adopted Village ordinances, and other applicable laws and ordinances, except where the Zoning Officer receives written notice of a variance having been granted by the Board.

A permit issued on the basis of a site plan approved by the Commission shall incorporate full compliance with the approved site plan as a condition of the issuance of the permit. Modifications to an approved site plan shall be in compliance with these regulations. Use, layout or construction at variance with approved plans or application materials shall be deemed in violation of these regulations, and subject to penalties in accordance with provisions outlined in this Ordinance.

(d) Expiration of Permits. A permit issued pursuant to the provisions of this Ordinance shall be consistent with the procedures stated within the Building Code. Expiration and notification requirements of the applicable code shall be followed.

(e) Inspection of Completed Work. The holder of any permit issued pursuant to the requirements of this section shall provide the Zoning Officer with copies of all approvals and/or certificates of occupancy from the designated Department of Building Standards and request a certificate of occupancy upon completion of the work authorized by the permit and prior of occupancy.

(f) Certificates of Completion. A Certificate of Completion shall be required prior to occupancy or re-occupancy of any use of land, building or structure. It shall be unlawful for any person, firm or corporation to hereafter occupy or re-occupy or for any owner or agent thereof to permit the occupation or re-occupation of any building or addition thereto, or part thereof, for residential purposes until a Certificate of Completion has been issued by the Zoning Officer. The following guidelines shall apply to Certificates of Completion.

(g) Purpose of Certificates. The purpose of a Certificate of Completion is to permit the occupancy or use of land, buildings or structures. The Certificate of Completion can be issued only upon the determination by the Zoning Officer that the site is in compliance with the provisions of this Ordinance, the Building Code, adopted Village engineering standards, and that all outstanding Village fees or other charges have been paid.

(h) Certificates for New and Existing Buildings. Failure to obtain a Certificate of Completion prior to commencing the use of property shall constitute a violation of this Ordinance, subject to the penalties as outlined herein.

(i) Temporary Certificates. A temporary Certificate of Completion may be issued by the Zoning Officer, for a portion of a building or structure prior to occupancy of the entire building or structure, provided that such portion of the building, structure or premises is in conformity with the provisions of this Ordinance and other applicable regulations of the Village, and provided further that no threat to public safety exists. A performance guarantee may be required in accordance with provisions outlined in this Ordinance as a condition of obtaining a temporary certificate. No temporary Certificate of Completion shall be granted for a period in excess of six months. The date of expiration shall be indicated on the temporary certificate; failure to obtain a final Certificate of Completion within the specified time shall constitute a violation of this Ordinance, subject to the penalties as outlined herein.

(j) Certificates for Accessory Buildings to Dwellings. Buildings and structures that are accessory to a dwelling shall not require a separate Certificate of Completion, but may be included in the Certificate of Completion for the principal use on the same parcel, provided the accessory buildings or uses are shown on the plot plan and are completed at the same time as the principal use.

(k) Period of Validity. A final Certificate of Completion shall remain in effect for the life of the building or structure, or part thereof, as long as the specific operation conducted within the building or structure or use of the land continues.

(l) Records of Certificates. A record of all Certificates of Completion shall be kept in the office of the Zoning Officer. Copies of such certificates shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property.

(m) Application Requirements. An application for a Certificate of Completion shall be made on forms supplied by the Zoning Officer and must be accompanied by the fees specified. A Certificate of Completion may be processed concurrently with an application for a building permit, if a building permit is required. The Zoning Officer shall determine if a non-residential occupancy change requires site plan review and approval by the Commission pursuant to this Ordinance.

(n) Issuance of Certificate. The Zoning Officer shall issue a Certificate of Completion upon notification by an applicant of the completion of a building or structure or other improvements and upon finding that the building or structure, or part thereof, or the use of land conforms with an approved site plan and the provisions of this Ordinance. If the request for a Certificate of Completion is denied, the applicant shall be notified in writing of the denial and the reasons for denial.

1149.11 FEES.

Any application for an amendment to this Ordinance, site plan review, review of a conditional land use proposal, review of a planned development proposal, request for a variance, request for inspection, request for a building or zoning permit, request for a Certificate of Completion, or other request for other action pursuant to the regulations set forth in this Ordinance shall be subject to

and accompanied by a fee as established by the Council. Such fees, including any outside consultant fees and all administrative and legal costs pertaining to the review and processing of any application, shall be collected in advance of any reviews, inspections or issuance of any permits or approvals. Upon notification of deficient payment of fees, the Zoning Officer shall cause any permits to be suspended and reject applications for new permits directly associated with the project. The assessment and payment of application fees does not affect the requirements for a performance guarantee as specified in this Ordinance. There shall be no fee in the case of applications filed in the public interest by a municipal department or Village official.

1149.12 VIOLATIONS/PENALTIES.

(a) Public Nuisance. Buildings erected, altered, razed, or converted (including tents, mobile homes, and trailer coaches) or uses carried on in violation of any provision of these regulations are hereby declared to be a nuisance per se, and shall be subject to abatement or other action by a court of appropriate jurisdiction.

(b) Violation. Any person, firm, corporation or agent or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this Ordinance by an enforcement official shall be deemed in violation of this Ordinance.

(c) Penalties. Any violation of Title 11 of the Village Codified Ordinances, unless otherwise set forth in these regulations, these regulations shall constitute a first degree misdemeanor. Any person who is convicted shall be subject to punishment by a fine not exceeding 1,000 dollars or by imprisonment not exceeding 180 days for each offense, or both, at the discretion of the Court. Each day a violation occurs or continues shall constitute a separate offense. Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent or other person who commits, participates in, assists in, or maintains any violation of these regulations may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator. The imposition of any sentence shall not exempt the offense from meeting compliance with the requirements of this Ordinance.

(d) Authority to Pursue Court Action. The Zoning Officer is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Court of Common Pleas, or any other court having jurisdiction, to restrain or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy or abate such noncompliance or violation. Any person aggrieved or adversely affected by such non-compliance or violation may institute suit or join the Village in such an action to abate the violation.

(e) Other Remedies. The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Village to initiate proceedings in an appropriate court of law to restrain or prevent any non-compliance with any provisions of this Ordinance, or to correct, remedy or abate such non-compliance.

(f) Rights and Remedies Preserved. Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance, or by law, and shall not constitute a waiver nor prevent any further prosecution of violations of this Ordinance.

1149.13 RECORDS.

Permanent and current records of this Ordinance, including but not necessarily limited to, all maps, amendments, variances, appeals, conditional land uses, Certificates of Completion, and related applications, shall be maintained in the office of the Village official having jurisdiction. Every rule or regulation, decision, finding of fact, condition of approval, resolution, or other transaction of business of the Commission or Board shall be duly recorded and filed in the public records of the office of the ~~Clerk-Treasurer~~Fiscal Officer. A copy of any application, permit, certificate, transcript of a public meeting, or other item of the public record, may be obtained from the appropriate Village office upon payment of copying costs.

CHAPTER 1151
Location of Sexually Oriented Businesses

- 1151.01 Purpose and findings.
- 1151.02 Definitions.
- 1151.03 Classifications.
- 1151.04 Location of sexually oriented businesses.
- 1151.05 Additional regulations concerning lot, yard, height, parking, building, and site design standards, and site plan requirements.
- 1151.06 Sign regulations for sexually oriented businesses.
- 1151.07 Severability.

1151.01 PURPOSE AND FINDINGS.

(a) Purpose. It is the purpose of this chapter to regulate Sexually Oriented Businesses in order to promote the health, safety, morals and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Sexually Oriented Businesses within the Village. The provisions of this chapter do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(b) Findings. The Council has received substantial evidence concerning the adverse secondary effects of adult uses on the community in findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*; 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Tuscon, Arizona; Garden Grove, California; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; New York, New York; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas, Houston, Texas, and Seattle, Washington.

1151.02 DEFINITIONS.

(a) “Adult Arcade”. Any place to which the public is permitted or invited where either or both:

- (1) Motion picture machines, projectors, video or laser disc players, or
- (2) Other video or image-producing devices are available,

run via coin, token or any form of consideration, to show images to five or fewer persons at one time; and where the images shown and/or live entertainment presented are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(b) “Adult Bookstore”, “Adult Novelty Store” or “Adult Video Store”. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

(1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or

(2) Instruments, devices, or paraphernalia, other than prophylactics, that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as “adult bookstore, adult novelty store or adult video store” so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

(c) “Adult cabaret”. A nightclub, bar, restaurant or similar commercial establishment that regularly features:

(1) Persons who appear in a state of semi-nudity;

(2) Live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities;

(3) Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or

(4) Films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(d) “Adult Motion Picture Theater”. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

(e) “Adult Theater”. A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of semi-nudity, live performances which are characterized by the depiction or description of specified anatomical areas, specified sexual activities, or live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment.

(f) “Covering”. Any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomic area beneath it.

(g) “Nude Model Studio”. Any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include:

(1) A proprietary school licensed by the State of Ohio, or a college, junior college, or university supported entirely or in part by public taxation.

(2) A private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three days in

advance of the class; and where no more than one semi-nude model is on the premises at any one time.

(h) "Nudity" or "State or Nudity" or "Nude". Exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.

(i) "Person". An individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals in whatever form or character.

(j) "Principal Business Purpose". 25 percent or more of the stock in trade of the business offered for sale or rental for consideration measured as a percentage of either the total linear feet of merchandise for sale or rental for consideration on display or the gross receipts of merchandise for sale or rental for consideration, whichever is greater.

(k) "Semi-Nudity" or "Semi-Nude Condition" or "Semi-Nude". Exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other clothing, provided that the areola is not exposed in whole or in part.

(l) "Sexual Encounter Center". A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.

(m) "Sexually Oriented Business". An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center.

(n) "Specified Anatomical Areas".

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

(o) "Specified Sexual Activities". Any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in subsections (o)(1) and (2) hereof.

1151.03 CLASSIFICATIONS.

Sexually Oriented Businesses are classified as follows:

(a) Adult arcades;

- (b) Adult bookstores, adult novelty stores or adult video stores;
- (c) Adult cabarets;
- (d) Adult motion picture theaters;
- (e) Adult theaters;
- (f) Nude model studios; and
- (g) Sexual encounter centers.

1151.04 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(a) Sexually Oriented Businesses may be located only in accordance with the restrictions contained in subsections (b) through (h) hereof.

(b) Sexually Oriented Businesses may be located only in the MU District.

(c) No Sexually Oriented Business may be established on a lot which borders on or touches Main Street (SR 303), Locust Street (Akron-Peninsula Road), or Riverview Road.

(d) No Sexually Oriented Business may be established as follows:

(1) Within 800 feet of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) Within 800 feet of a public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; schools includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) Within 500 feet of a licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State;

(4) Within 200 feet of a public park or recreation area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the Village which is under the control, operation or management of either the Village, MetroParks Serving Summit County, or the Cuyahoga Valley National Park; or

(5) Within 200 feet of the property line of a lot devoted to a residential use as defined in this Ordinance.

(e) No Sexually Oriented Business may be established, operated or enlarged within 200 feet of another Sexually Oriented Business.

(f) Not more than one Sexually Oriented Business shall be established or operated in the same building, structure or portion thereof, and the floor area of any Sexually Oriented Business in any building, structure or portion thereof containing another Sexually Oriented Business may not be increased.

(g) For the purpose of subsection (d) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a Sexually Oriented Business is conducted, to the nearest property line of the premises of a use listed in subsection (d) hereof.

(h) For the purpose of subsection (e) hereof, the distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is conducted.

1151.05 ADDITIONAL REGULATIONS CONCERNING LOT, YARD, HEIGHT, PARKING, BUILDING, AND SITE DESIGN STANDARDS AND SITE PLAN REQUIREMENTS.

(a) Lot, yard, height, parking and building and site design standards for a Sexually Oriented Business shall conform to those requirements applicable to all uses in the district in which the Sexually Oriented Business is proposed to be located.

(b) The site plan for a Sexually Oriented Business shall be submitted to the Commission for site plan review and approval in accordance with the procedures for all uses to which site plan review is applicable under this Ordinance.

(c) Review and approval procedures for a site plan for a Sexually Oriented Business shall also be in accordance with any procedures duly adopted by the Council as may be applicable to the licensing and operation of Sexually Oriented Businesses.

1151.06 SIGN REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES.

(a) All signs shall be “wall signs” as defined in this Ordinance, with a maximum allowable sign area of 50 square feet as measured in accordance with the standards specified in this Ordinance, and shall comply with the location standards specified in this Ordinance, and the illumination standards specified in this Ordinance.

(b) Review and approval for a sign permit for a Sexually Oriented Business shall also be in accordance with any procedures duly adopted by the Council as may be applicable to the licensing and operation of Sexually Oriented Businesses.

(c) All signs shall be maintained in accordance with the provisions of this Ordinance and may be ordered to be removed in accordance with the provisions of this Ordinance.

(d) No merchandise or pictures of the products or entertainment on the premises shall be displayed in the window areas or any area where they can be viewed from the sidewalk or street in front of the building.

(e) Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square foot sign may be placed on the door to state hours of operation and admittance to adults only.

1151.07 SEVERABILITY.

If any section, subsection or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

CHAPTER 1155 Definitions

1155.01 General terms.

1155.02 Specific terms.

1155.01 GENERAL TERMS.

For the purpose of this chapter certain terms and words are herewith defined. When not inconsistent with the context, words used in the singular shall include the plural, the plural shall include the singular, and the present tense shall include the future. All terms describing State, County or Village officials or bodies refer to terms as used in the Ohio Revised Code. Where not defined herein, please refer to the most recently issued edition of the Merriam-Webster Collegiate Dictionary.

1155.02 SPECIFIC TERMS.

Accessory building. See “Building, Accessory”.

Accessory use. See “Use, Accessory”.

Administrative Official. The Mayor or a designee thereof.

Alley. A public thoroughfare or way, providing only a secondary means of access to abutting premises, generally located at the rear of the land.

Alteration. Any changes in structural (including window and door locations), stairway, type of construction, type, class or kind of occupancy, light or ventilation, means of ingress and egress, or other changes affecting or regulated by the Building Code, this Ordinance or other applicable regulations of the Village, including but not limited to any change or rearrangement in the structural parts (including window and door locations) or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or in the moving from one location or position to another.

Basement. That portion of a building partly below grade, but so located that the vertical distance from grade to the floor is not greater than the vertical distance from the grade to the ceiling; provided, however, that if the vertical distance from the grade to the ceiling is five feet or more, such basement shall be counted as a story.

~~*Benefit, Recognizable and Substantial.* A clear benefit, both to the ultimate users of the property in question and to the community development and use(s), including, without limitation: long term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a quantity and/or quality documented by the Village or any other source recognized by the Village as being in need of protection or preservation on a local, state and/or national basis; and reducing to a significant extent the nonconformity of a nonconforming use or structure (i.e., modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated).~~

Block. An area including the property having frontage on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way. In case of a cul-de-sac street, a block shall include the property on one side of the street lying between the one intersecting street and the extension of the centerline of the cul-de-sac street through the property facing the turnaround at the closed end of the street.

Board. The Board of Zoning Appeals of the Village.

~~*Boarding or Rooming House.* Any dwelling occupied in any such manner that certain rooms in excess of those used by members of the family and occupied as a home or family unit, are leased~~

~~or rented to persons outside of the family, without any attempt to provide therein or therewith cooking or kitchen accommodations for individuals leasing or renting rooms.~~

Buildable Area. For a planned development, the gross lot area minus the areas occupied by all existing street rights-of-way, easements, wetlands, and waterbodies.

Building. A structure having a roof supported by columns or walls for shelter, support or enclosure of persons, animals or chattels. When any portion thereof is completely separated from every other part thereof by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

Building, Accessory. A building on the same lot with the main building or part of the main building subordinate or accessory to and occupied by or devoted exclusively to an accessory or subordinate use to the principal building.

Building Code. The Building Code of the Village.

Building Height. The vertical distance from the established grade of the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line for a mansard roof, and to the mean height level between the eaves and ridge for hip, gabled and gambrel roofs.

Building Line. The front line of the principal building or, if no building exists, the legally established line which determines the location of the building with respect to the street line.

Carport. An accessory structure attached to a principal building, having a roof with one or more open sides and for the prime purpose of sheltering motor vehicles.

Clinic. A clinic, public or proprietary institution providing diagnostic, therapeutic or preventive treatment of ambulatory patients by a group of doctors acting conjointly and in the same building for the purpose aforesaid.

Code, Building. See “Building Code”.

Code of Ordinances. The Code of Ordinances of the Village.

Commission. The Planning Commission of the Village.

Common Open Space. Real estate preserved for passive or active purposes which is void of nonrecreational structures and is under common ownership for the use and enjoyment of community of individuals.

~~*Community Impact Statement.* An assessment of the development, ecological, social, economic and physical impacts of a project on the natural environment and physical improvements on and surrounding the development site. Information required for compliance with applicable Village or other ordinances or regulations shall not be required to be duplicated in the community impact statement.~~

Council. The Council of the Village.

County. The County of Summit, Ohio.

Domestic help. Those persons hired by the householder for the purpose of providing domestic services and maintenance of the household.

Driveway, Private. A means of vehicular access to a particular parcel which is not a right-of-way.

Dwelling. Any house or building or portion thereof which is occupied wholly as the home, residence or sleeping place of one or more human beings, either permanently or transiently. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings. Garage space, whether in an attached or detached garage, shall not be deemed a part of a dwelling. Automobile trailers, similar portable dwellings, tourist cabins and tents shall not be considered dwellings.

~~—*Dwelling, Accessory.* A dwelling existing within part of the same building as, or within building which is accessory to another building containing a principal use that has been permitted by right or subject to conditional use approval pursuant to this Ordinance.~~

~~*Dwelling, Efficiency Unit.* A dwelling consisting of one room, exclusive of bathroom, kitchen, closets and dining alcove directly off the principal room, providing not less than 350 square feet of floor area.~~

Dwelling, Multiple-family. A dwelling containing ~~four or more~~ three dwelling units.

Dwelling, Single-family. A dwelling containing one dwelling unit.

Dwelling, Three-Family. A dwelling containing three dwelling units: on a single parcel and not part of Multiple Family Development.

Dwelling, Two-Family or Duplex. A dwelling containing two dwelling units.

Dwelling Unit. A building or portion thereof designed for occupancy by one family, plus domestic help, for residential purposes and having independent sleeping, cooking and toilet facilities affixed to a permanent foundation.

Engineer, Village. An engineer employed by the Village, or an engineer or engineering firm providing consulting services to, the Village, in furtherance of the provisions outlined in this Ordinance.

Essential Services. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, communication, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare.

~~*Family.* A man or wife or a father or a mother and their children by natural birth or adoption and the parents of either or both and may also include two additional persons who occupy rooms for which compensation may or may not be paid; provided any group of persons, not so related, but inhabiting a single housekeeping unit, shall be considered to constitute one family, for each five persons, exclusive of domestic employees in each group. A group of individuals, not necessarily related by blood, marriage, adoption, or guardianship, living together in a dwelling unit as a single housekeeping unit; but not including any society, club, fraternity, sorority, association, lodge, federation, or like organization, unless required by the Ohio Revised Code.~~

- *Floodplain Regulations.* The Floodplain Regulations of the Village.

Farm Market. An area of land, which may or may not include a structure, where agricultural goods and products may be sold, and which is located on the property where the products and goods were grown or produced.

Farmers' Market. An area of land, which may or may not include structures, where agricultural goods and products may be sold, and which may, but need not be located on the property where the products and goods were grown or produced.

Farming. The use of the land for tillage of the soil, dairy farming, ranching, production or raising of crops, poultry or livestock, and production of poultry or livestock products in an unmanufactured state for sale.

Farming for Personal Use. The use of the land for tillage of the soil, dairy farming, production or raising of crops, poultry or livestock, and production of poultry or livestock products for personal or family use.

Floor, First. The floor of a building approximately at or at the first floor above the mean level of the established grade.

Floor Area.

(a) For single-family residential and two-family residential units, the sum of the horizontal areas of the one or more floors of a building measured from the exterior walls, exclusive of basements, unfinished rooms or attics, attached garages, breezeways, enclosed or unenclosed porches and utility rooms having three exterior walls.

(b) For multiple-family units, the area included between the outside face of the exterior walls, excluding basements, utility or accessory rooms, common hallways, and common stairways.

(c) For other than residential purposes, the area enclosed between the outside face of the exterior walls of the building or structure.

Floor Area, Livable. The area of the first floor, the area of the floor next above and/or the area under a sloping roof having a minimum height of five feet when one-half of the area has a ceiling height of seven feet six inches.

Garage, Community. A space or structure or series of structures for the storage of motor vehicles having no public shop or service therewith, for the use of two or more owners or occupants of property in the vicinity.

Garage, Private. A space or structure for the storage of ~~not more than three~~ motor vehicles, having no public shop or services in connection therewith for the use solely of the owner or occupant of the principal building on a lot for his family or domestic employees.

Garage, Public. A space or structure, other than a private or community garage, for the storage, repair or refinishing of motor vehicles for a profit.

Gasoline Service Station. A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water, and other operating commodities for motor vehicles or boats and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for facilities for storage, repair, or servicing thereof, but not including bumping, painting or refinishing thereof.

Grade.

(a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of all walks adjoining the street.

(b) For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the center of the walls adjoining the streets.

(c) For buildings having no walls adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street.

Greenbelt. A strip of land used for planting or fencing that separates one property from another or a property from the public right of way.

~~—(a) For an eight foot wide greenbelt, a planting strip composed of deciduous trees, spaced not more than 40 feet apart, and not less than one row of shrubs spaced not more than five feet apart, and which grow at least five feet or more in height after one full growing season, and which shall be planted and maintained in a healthy growing condition by the property owner or lessee.~~

~~—(b) For a 20 foot greenbelt, a planting strip composed of two rows of deciduous and/or evergreen trees, spaced alternately not more than 40 feet apart, and not less than three rows of shrubs spaced at not more than eight feet apart, and which grow at least five feet or more in height after one full growing season, which shrubs will eventually grow to a height of not less than 12~~

~~feet at maturity, and which shall be planted and maintained in a healthy growing condition by the property owner or lessee.~~

Hazardous Uses. All uses which involve the storage, sale, manufacture or processing of materials which are risky and combustible and are likely to burn with moderate rapidity and with a considerable volume of smoke, but from which neither poisonous fumes nor explosions are to be anticipated in the event of fire, and as listed by the Building Code.

Home Occupation. A business use carried on by an occupant of a dwelling unit during regular business hours as a secondary use, and which is clearly subservient to the use of the dwelling for residential purposes. This designation does not apply to one-time or occasional events.

Hospital. A building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the Health Department of the State.

Hotel. A building occupied as a more or less temporary abiding place for individuals who are lodged, with or without meals, in rooms occupied singly for hire, in which provision is not made for cooking on any individual plan.

Impact Statement. An assessment of the development, ecological, social, economic and physical impacts of a project on the natural environment and physical improvements on and surrounding the development site. Information required for compliance with applicable Village or other ordinances or regulations shall not be required to be duplicated in the community impact statement.

Kennels. Any lot or premises on which four or more dogs are either permanently or temporarily boarded.

Landscaping. Trees, shrubs, vines, fences, walls or earth berms, or some combination thereof, together with groundcover, lawns, mulch, or bedding materials.

Large Domestic Animals. Animals that live in or about the habitation of people such as to contribute to the support of family and/or the wealth of a community and includes cows, oxen, alpacas, llamas, donkeys and horses.

(Ord. 108-2009. Passed 7-13-09.)

Long Range Plan. The Long Range Plan of the Village.

Lot. A piece or parcel of land occupied or to be occupied by a building and its accessory building, or by any other activity permitted thereon and including the open spaces required under this Ordinance. A lot may or may not be a lot of existing record.

Lot, Area. The total area within the lot lines of a lot, excluding any street rights-of-way.

Lot, Area Net. The area of the lots exclusive of wetlands or other undevelopable property such as steep slopes or easements.

Lot, Corner. A lot of which at least two adjacent sides abut for their full length upon a street.

Lot, Double Frontage. An interior lot having a street line for both front lot line and rear lot line.

Lot, Interior. A lot other than a corner lot.

Lot Coverage. The part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot Line, Front.

(a) In the case of a lot abutting upon one street, the line separating such lot from such street.

(b) In case of any other lot, one such line shall be elected to be the front lot line for the purpose of this Ordinance, provided it is so designated in the building plans filed for approval with the Administrative Official.

Lot Line, Rear. That boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line, not less than 10 feet long, lying most distant from the front lot line and wholly within the lot.

Lot Line, Side. Any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior lot line.

Lot of Record. A lot the dimensions of which are shown on a plat of record or by legal description in the office of the register of deeds-Summit County Fiscal Office and which actually exists as so shown on the plat or legal description.

Mayor. The Mayor of the Village.

Mobile Home. A mobile home is a portable unit designed and built to be towed on its own chassis, comprised of frame and wheels, connected to utilities and designed without a permanent foundation for year-round living.

Multiple Family Development. A Planned Development as defined by this Ordinance.

Natural Features. Soils, wetlands, floodplains, water bodies, topography, vegetative cover and geologic formations.

Nonconforming Use. See “Use, Nonconforming”.

Occupancy Load. The number of individuals normally occupying the building or part thereof or for which the existing facilities have been designed.

Parking Lot, Off-Street. A facility other than for single-family dwellings 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 three vehicles.

Parking Space. A paved- durable and dustless surface at least nine feet wide by 18 feet long, which is accessible and can be used at all times for parking a motor vehicle. Except as otherwise provided in this Ordinance, parking spaces shall be defined exclusive of driveways, fire and sanitary lanes, and commercial loading areas.

Party-in-interest. A person who has standing to appeal the final decision of a Village board or commission, who made an appearance at the Village board or commission hearing or meeting at which the final decision was made, in person or through an authorized representative, and is either the applicant or a property owner or tenant of property located within 300 feet of the subject property or properties.

Planned Development. Land area with a specified minimum acreage which is to be developed as a single entity according to a plan, consisting of one or more concentrations of structures.

Planned Unit Development. Land area including such concepts as cluster development, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of this Ordinance through a land development project review process, based on the application of site planning criteria, to achieve integration of the proposed land development project with the characteristics of the project area.

Public Utility. A public utility is any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing to the public, under federal, state or municipal regulations, electricity, gas, steam, telephone, telegraph or other communication, transportation or water.

Public Way. An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, 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.

Recreation Space. Real estate devoted to recreational purposes which contains Village-approved site improvements, including, but not limited to, shelters, swimming pools, tennis courts, and playground fixtures.

– *Recreational Vehicle.* A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreational and camping purposes. Recreational vehicle includes but is not limited to travel trailer, truck camper, motor home, boats, camper trailer, tents and self-contained units.

Repair. See “Alteration”.

Right-of-Way. A strip of land taken or dedication 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, landscape areas, viaducts, and bridges.

Setback. The distance between a building or structure and any lot line.

Sign. Any visual communication display, object, device, graphic, structure or part, situated indoors or outdoors, or attached to, painted on or displayed from a building or structure, in order to direct or attract attention, or to announce or promote an object, product, place, activity, person, institution, organization, or business or the like, by means of letters, words, model, banner, flag, pennant, insignia, device designs, colors, symbols, fixtures, images, illuminations or representation used as, or which is in the nature of an announcement, direction or advertisement. For the purpose of this Ordinance, the word “sign” does not include flag, pennant, badge, or insignia of any government or governmental agency.

Sign, Animated. Any sign that uses flashing lights or movement of the sign or some element thereof, to depict action or create a special effect or scene.

Sign, Awning or Canopy Sign. Any sign that is painted on, printed on or attached to an awning, canopy or other fabric, plastic, or structural protective cover.

Sign, Back Lighted Letter. An illuminated reverse channel letter with an open or translucent back so that light from the letter is directed against the surface behind the letter producing a halo lighting effect around the letter; also referred to as a silhouette or halo-lighted.

Sign, Banner. A sign made of lightweight fabric or similar material with no enclosing framework that is secured to a building or other structure at one or more edges.

Sign, Billboard (synonymous with off-site advertising). A sign that directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.

Sign, Building. Any sign attached parallel to any part of a building and including wall signs, awning or canopy signs and window signs.

Sign, Cabinet. A sign structure consisting of the frame and face(s) not including the internal components, embellishments, or support structure.

Sign, Changeable Copy. A portion of a sign with letters, characters, or graphics that are not permanently affixed to the structure, framing or background allowing the letters, characters or graphics to be modified manually or by electronic or mechanical devices from time to time as situations change, such as bulletin board or announcement board.

Sign, Channel Letter. A fabricated or formed three-dimensional letter that may accommodate light source.

Sign, Directional. A sign located at the driveway entrance or exit and intended to provide for safe ingress and egress

Sign, Electronic Message Center. A variable message sign that utilizes a computer-generated message or some other electronic means of changing copy.

~~*Sign, Entrance or Exit.* A sign located at the driveway entrance or exit and intended to provide for safe ingress and egress.~~

Sign, Exterior Illuminated. A sign that is illuminated by a light source that is directed towards and shines on the face of a sign; also called direct illumination.

Sign, Flag. A piece of flexible material having a distinctive size, color and design, used as a symbol, standard, signal or emblem.

Sign, Ground or Monument. A sign supported from the ground and not attached to any building.

Sign, Halo Lighted. See definition of sign, back lighted letter.

~~*Sign, Ideological.* Any temporary sign announcing an idea, opinion or position on a social or political issue and containing no commercial message.~~

Sign, Illuminated. A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Sign, Instructional. A sign that has a purpose secondary to the use on the lot and that is intended to instruct employees, customers, or users as to matters of public safety or necessity such as specific parking requirements, the location or regulations pertaining to specific activities on the site or in the building, and including a sign erected by a public authority, utility, public service organization, or private industry that is intended to control traffic; direct, identify or inform the public; or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy.

Sign, Internally Illuminated. A sign illuminated internally through its sign face by a light source contained inside the sign.

Sign, Marquee. A sign attached to a structure, other than an awning or canopy sign, projecting from a wall of a building above an entrance and extending over a street, sidewalk or part thereof.

Sign, Mobile. A sign that is on wheels, runners, casters, or has a frame to which wheels, runners or casters may be affixed, parked trailers, parked vehicles, or other mobile devices, including tethered and/or anchored balloons.

Sign, Pan Channel Letter. A dimensional letter that is constructed with sidewalls, a back, and a face making the letter a solid integral unit with the sidewalls and back having a pan shaped cross section.

Sign, Permanent. A sign that is not temporary.

Sign, Projecting. A sign that is attached to a building wall and extending 12 inches or more perpendicular to the face of the wall.

Sign, Reverse Channel Letter. A fabricated dimensional letter with opaque face and sidewalls.

Sign, Roof. A sign erected, constructed or maintained wholly upon or over the roof or parapet wall of any building with the principal support on the roof structure.

Sign, Sign Face. The area or display surface used for the message.

Sign, Sign Plate. A wall sign not exceeding two square foot in area.

Sign, Temporary. A sign that is designed to be used only temporarily and is not intended to be permanently attached to a building, a structure or permanently installed in the ground.

Sign, Wall. A sign painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign in plane parallel to the plane of the wall and not extending more than 12 inches therefrom and which does not project above the roofline or beyond the corner of the building.

Sign, Window. A sign that is applied or attached to a window or door, or a sign located near a window within a building for the purpose of being visible to and read from the outside of the building except for signs that are not legible from a distance of more than three feet beyond the building in which such sign is located.

Sketch Plan. A plan which may or may not approximate the level of detail as required for a site plan pursuant to this Ordinance, and which is submitted to the Village for the purpose of initiating discussion prior to formal application for site plan approval.

Sound Level. The reading, as measured in decibels (dB), of a sound level meter and associated octave band filter, which conforms to the latest standards of the American Standards Association. The decibel reading shall be based on the 70 dB weighting network and shall be the average of five readings taken at intervals approximately five feet apart, at a height of five feet above the established grade.

State. The State of Ohio.

Story. That part of a building included between the surface of one floor and the surface of the next floor. A story thus defined shall not be counted as a story when more than 50 percent of the height is below the established grade.

Story, Half. A story situated within the sloping roof, the area of which, at a height of four feet above the floor, does not exceed two-thirds of the floor area in the story directly below it; and the height above, at least 200 square feet of floor space, is seven feet six inches.

Street Commissioner. The Street Commissioner of the Village.

Structure. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, fences, and billboards.

Subdivision Regulations. The Subdivision Regulations of the Village.

~~*Tourist Home.* A tourist home shall be construed to mean any dwelling occupied in such a manner that certain rooms in excess of those used by members of the family, as hereinbefore provided, and occupied as a home or family unit, are rented without cooking facilities, to the public for compensation and catering primarily to the public traveling by motor vehicle.~~

~~*Trailer Park.* A mobile home or trailer coach park refers to any site, lot, field or tract of land upon which three or more occupied mobile homes or trailer coaches are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home or trailer coach park.~~

Travel Trailer. A travel trailer is a vehicular portable structure built on a chassis, which can be towed by an automobile, and is designed to be used principally as a temporary vacation dwelling.

Underlying Zoning. The zoning classification and regulations applicable to the property immediately preceding the grant of an application to designate the property as a Planned Residential Development, ~~or~~ Planned Unit Development, Conservation Recreation Overlay or Historic Preservation Overlay.

Use. The purposes for which land or buildings are designed, arranged or intended to be occupied or used, or for which they are occupied or maintained.

Use, Accessory. A use of land or portion of the building customarily incidental to the actual principal use of the land or building and located on the same parcel of property with such principal use.

Use, Nonconforming. A use which is prohibited under the terms of this Ordinance, but which existed lawfully on the date of enactment of this Ordinance, or amendment thereto.

Vehicle, Commercial. Any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor, as defined in Section 4501.01(J) of the Ohio Revised Code.

Village. The Village of Peninsula, Ohio.

Village Engineer. The Engineer of the Village.

Village Planner. The Planner of the Village.

Workshop Session. A period of time set aside during a regular or special meeting for the purpose of exchanging information and ideas about a project. No decisions are made during this session.

Yard. An open space at grade line between a building and the adjoining lot lines, unoccupied and unobstructed from the ground upward, except for certain architectural features specified in this Ordinance. Yard measurements shall be the minimum horizontal distance between a lot line and the nearest line of the main building.

Yard, Front. A yard extending across the full width of the lot between the front street lot line and the nearest line of the main building.

Yard, Rear. A yard extending across the full width of the lot between the rear lot line and the nearest line of the main building.

Yard, Side. A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building.

Zoning Officer. The Zoning Officer of the Village.

Zoning Ordinance (also "this Ordinance"). The Zoning Ordinance of the Village.

CHAPTER 1159
SUBDIVISION REGULATIONS

1159.01 PURPOSE AND INTENT.

This Chapter of the Planning and Zoning Code shall hereafter be known, cited, and referred to as the Subdivision Regulations of the Village of Peninsula. The general purpose of these Regulations shall be to guide and regulate the subdivision and development of land in order to promote and protect the public health, safety, convenience, comfort, prosperity, and general welfare of the Village. It is intended that these Regulations shall serve the following objectives:

- (a) To provide for orderly development of land;
- (b) To preserve the “small town” character of the Village;
- (c) To encourage more efficient use of land and public services through unified development;
- (d) To preserve the natural beauty and topography of the Village and insure appropriate development with regard to these natural features;
- (e) To establish reasonable standards of design;
- (f) To insure safe and convenient vehicular access;
- (g) To protect and conserve the value of land;
- (h) To ensure that land to be subdivided shall be of such character that it can be used safely for building purposes; and
- (i) To coordinate land development in accordance with the Zoning Ordinances.

These Regulations shall be considered minimum requirements and standards for the subdivision and development of land within the Village.

1159.02 PLATTING REQUIRED.

These Subdivision Regulations shall apply to all subdivisions of land. No land shall be subdivided except in compliance with these Subdivision Regulations and the provisions of the Zoning Ordinance of the Village.

No land shall be subdivided within the Village until:

- (a) The sub-divider has prepared and submitted a plat of the entire parcel as set forth in these Subdivision Regulations;
- (b) Said plat has been approved as provided herein; and
- (c) The approved plat has been filed with the County Recorder.

No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these Subdivision Regulations. No excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with these Regulations.

1159.03 DEFINITIONS.

(a) For purposes of these Subdivision Regulations, certain words, terms, or phrases shall be as follows:

- (1) All words used in the present tense include the future, the singular shall include the plural, and the plural include the singular.
- (2) “Person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (3) “Shall” is mandatory; “may” is permissive.

- (4) “Lot” includes “plot”, “premises”, or “parcel”.
- (5) “Building” includes “structure”.
- (6) “Used or occupied” includes “intended, designed, or arranged to be used or occupied”.
- (7) All words not specifically defined shall have the meaning as commonly used.

(b) For purposes of these Subdivision Regulations, the following words, terms, or phrases shall be defined as follows:

- (1) “Lot” means a tract, plat, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.
- (2) “Lot line” means the boundary of a lot separating it from an adjoining property.
- (3) “Lot width” means the horizontal distance between the side lot lines measured at the setback line.
- (4) “Planning Commission” or “Commission” means the Village of Peninsula Planning Commission.
- (5) “Right-of-way” means the strip of land occupied or intended to be occupied by a street, walkway, or other public improvement relating to public access or travel.
- (6) “Setback line” or “building setback line” means a line a minimum distance from and parallel to the centerline of any right of way between which no building or portion thereof may be erected.
- (7) “Subdivision” means:
 - A. The division of land into two or more parts, lots, parcels, sites, units, tracts, or interests for the purpose of transfer of ownership, lease, or building development, either immediate or future;
 - B. The division or development of land whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or another recorded instrument;
 - C. The improvement of one or more parcels of land for structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street, right-of-way, or easement; or
 - D. The re-subdivision of any lot or lots in any recorded subdivision.
- (8) “Subdivision, minor” means:
 - A. The sale or exchange of parcels between adjoining lot owners where such sale or exchange does not create additional building sites and does not reduce any existing parcel to less than the minimum acreage required for the zoning district; or
 - B. Any subdivision containing not more than four lots, all of which: have frontage on an existing street; do not involve any new street, right-of-way, easement, or the extension or creation of any public improvements; and do not adversely affect the remainder of the parcel or any adjoining property: or
 - C. Any consolidation of adjoining parcels on an existing street.
- (9) “Sub-divider” means a person that desires to divide or consolidate a parcel of land within the Village.

1159.04 PLAT APPROVAL PROCEDURES.

The following procedures shall be followed with regard to the submittal, review, and approval of subdivision plats. A sub-divider may request an informal review of a concept plan by the Zoning Official and/or the Mayor prior to the submission of a preliminary plat to obtain comments and

direction on the proposed subdivision. The concept plan shall include the general layout of the streets and lots.

1159.05 PRELIMINARY PLAN PROCESS.

- (a) Prior to formal submission of a subdivision plan, the sub-divider shall submit ten (10) copies of the preliminary plan to the Planning Commission for review and comment by the Commission. Said submittal shall be made at least 14 days in advance of the Planning Commission meeting at which it is to be considered and shall be accompanied by the required fee as set forth in Section 1159.24. Such preliminary plans shall include the general layout of streets and lots, plotted on a topographic map, complying with the technical requirements set forth in Section 1159.06 and the planning principles established in the Zoning Code. The purpose of the preliminary plan is to explore the best design for the subdivision and the best relationship to adjoining subdivisions or undeveloped land; outline a program of improvements; ensure that an adequate water supply and an adequate septic system may be provided to each lot and that extensive and environmentally harmful grading operations will not be required; and obtain the advice, suggestions, and requirements of the Planning Commission before the plan becomes rigid as in a detailed drawing. The submittal of alternative plans is recommended.
- (b) The Planning Commission shall examine the preliminary plan at its next regular meeting, giving the applicant an opportunity to be heard and answer any questions concerning the plan.
- (c) Prior to submission of the preliminary plans to the Planning Commission, the Zoning Officer shall review the preliminary plan and profiles against the requirements of these Subdivision Regulations and all applicable ordinances of the Zoning Code of the Village. If the Village has an Engineer in its employ, the Zoning Officer shall forward the plans to the Village Engineer, who shall promptly return a copy of the preliminary plan and profiles to the Zoning Officer, together with his or her comments and recommendations.
- (d) After the Zoning Officer receives the report of the Village Engineer, if any, and any other comments and recommendations concerning the plan, they shall be forwarded to the Planning Commission for its review and comments.
- (e) If the Planning Commission finds that the plan meets the requirements of these Regulations and other ordinances of the Village, and it is approved, or it is approved with conditions, the Chairperson shall sign two copies of the preliminary plan and profiles with a notation that the same are approved, subject to any special conditions. One copy shall be delivered to the sub-divider and the other shall be retained by the Planning Commission.
- (f) If the Planning Commission does not approve the plan and profiles, it shall state in writing the conditions to be complied with before approval may be obtained.
- (g) Final approval of the preliminary plan and profiles shall assure the sub-divider for a one-year period from the date of approval by the Commission:
 - (1) That the general layout of streets, lots, building sites and other features is approved and has been established as the basis for the preparation of the final plat;
 - (2) That the general terms and any special conditions under which the approval of the plan was granted will not be changed unless additional information or data are received in the meantime that would indicate that changes should be affected; and
 - (3) That the developer may submit drawings and specifications for improvements and a final plat for the subdivision.

1159.06 SUBMITTAL REQUIREMENTS FOR PRELIMINARY PLANS.

The sub-divider shall furnish, with the application for approval of the preliminary plan of a subdivision as described in Section 1159.05, the following maps, data, and plans:

- (a) Maps and data, either separate or combined, shall be provided as follows:
 - (1) A vicinity map. A print, such as a section of the 400-foot scale Village map, showing thereon the location of the proposed subdivision and its relationship to adjacent developments, streets, and all community facilities which serve or influence it;
 - (2) A property line map. A drawing showing bearings and distances of the parcel to be subdivided; location, width, and purpose of easements; the name, width, and location of abutting streets, including location of pavements and sidewalks; and structures on the parcel and within 100 feet on adjoining property;
 - (3) A utility map. A drawing showing utilities on and adjacent to the parcel, including location and size of gas mains and water mains, if any, and location of fire hydrants, if any, and electric power and telephone poles;
 - (4) A topographic map. A drawing showing contours at two-foot intervals based on the County datum plane. It shall show the approximate direction and gradient of the ground slope on immediately adjacent land; indicate the subsurface condition of the tract if not typical; and show watercourses, marshes, wooded areas, isolated preservable trees, and other significant features. The topography may be compiled by photogrammetric methods and shall be at the same scale as the preliminary plan.
 - (5) Titles and certifications indicating present parcel designations according to official records, the name of the developer, the names and addresses of owners, certification of the registered surveyor, and the scale and date of the survey;
- (b) A plan shall be prepared in accordance with the planning principles set forth in the Zoning Code and designed by a registered engineer or surveyor. The plan shall be accurately and clearly drawn at a scale of not less than 1-inch equals 100 feet. The profiles, which may be prepared on standard cross-section paper, shall have a horizontal scale of one-inch equals fifty feet and a vertical scale of one-inch equals five feet. The drawing shall include the aforesaid topographic and property line data, the surrounding streets and lots, and the proposed plan, or alternative plans, of the subdivision, and show the following:
 - (1) The street layout, right-of-way and pavement widths, approximate grades, names and whether the streets are public or private;
 - (2) The Location, width, and purpose of any other rights of way;
 - (3) The approximate dimensions and number of lots, with building setbacks;
 - (4) The location and approximate dimensions of any property to be reserved or dedicated for parks, wildlife refuges, or other public uses;
 - (5) A title block including a graphic scale, north arrow, date, and name of allotment; and
 - (6) Preliminary drawings showing street profiles and grades, a typical cross-section of proposed roadways, proposed storm sewers, septic systems, and water supply, as well as all existing watercourses, culverts, storm sewers, and existing features pertinent to the plotting of an allotment.

1159.07 PROCESSING OF FINAL PLATS.

- (a) The sub-divider shall submit 10 copies of a final plat prepared by a registered surveyor or engineer along with such supporting data as required herein. Said submittal shall be in

conformance with the approved preliminary plan and be made at least 14 days in advance of the Planning Commission meeting at which it is to be considered and shall be accompanied by the required fee as set forth in Section 1159.24.

- (b) The Commission shall review final subdivision plats and make a recommendation to the Village Council regarding approval of said plats within a reasonable period of time, but not to exceed 30 days from the date of submittal, unless an extension of time is agreed to by the sub-divider. The Commission may request comments from the Village Engineer or other officials or experts whose advice may be helpful in evaluating the subdivision proposal. The plat, together with the Commission's recommendation, shall then be forwarded to Council.
- (c) Upon receipt of the subdivision plat and the recommendation of the Planning Commission, Council shall schedule the plat for review at a Council meeting and shall, within a reasonable period of time, either approve, conditionally approve with stipulations, or disapprove the plat.
- (d) Should Council approve or conditionally approve the plat, the sub-divider shall install the improvements required by the approval, submit to the Zoning Officer a cost estimate for completion of all public improvements associated with the subdivision, or install a portion of the improvements and submit a cost estimate for the completion of the improvements. If a portion of the improvements are installed, the Village Engineer, or Zoning Officer in the absence of a Village Engineer, shall approve the installed improvements. The Village Engineer or Zoning Officer shall review any estimates and establish the amount of any performance bonds to be posted. The sub-divider shall submit bonds in the amount established by the Village Engineer or Zoning Officer in a form approved by the Village Solicitor.
- (e) Upon submittal and approval of the required bonds (as set forth in Section 1159.22 hereof) or the installation of the required improvements, the Mayor, Village Engineer (or Zoning Officer in the absence of a Village Engineer), and Village Fiscal Officer shall sign the final plat prior to the recording of the plat. The placement of said signatures on the plat shall constitute final approval of the subdivision.
- (f) No street, right of way, easement, or other required improvement shall be deemed accepted for dedication until it has been inspected by the Village Engineer, or Zoning Officer in the absence of a Village Engineer, and said Engineer or Zoning Officer has filed a written finding with the Fiscal Officer that said street or other improvement has been constructed in accordance with the specifications set forth on the approved plat and the rules and regulations outlined herein, and said street or other improvement is in good repair.

1159.08 SUBMITTAL REQUIREMENTS FOR FINAL PLATS.

Subdivision plats submitted to the Village for review and approval shall be 18 inches by 30 inches in size and be drawn at a scale of 1" = 100'. Final subdivision submittals shall include, at a minimum, the following:

- (a) A vicinity or location map at a scale of 1" = 1000' showing the relationship of the proposed subdivision to the surrounding area.
- (b) The name of the subdivision, north arrow, scale, and date.
- (c) The names of all adjoining property owners.
- (d) The property boundaries with length of courses in feet and hundredths and bearings to not more than half seconds.
- (e) The curve data for streets including the radii, arcs, chords, chord bearings, tangent, and

central angle.

- (f) Accurate dimensions for all lots, reserve parcels, rights-of-way, and easements.
- (g) The accurate location of all required monuments.
- (h) A summary of the area of land used for each of the following: lots, rights-of-way, parks, and open space.
- (i) Detailed construction plans prepared by a registered engineer for all required improvements at a scale of 1" = 50' on 24" by 36" sheets or at such other scale acceptable to the Village Engineer, or Zoning Officer in the absence of a Village Engineer.
- (j) An erosion control and storm water plan.
- (k) The location of setback lines from public rights-of-way as required by the Zoning Ordinance.
- (l) An acknowledgment by the owner that the plat was prepared with his consent and is accepted by him and dedicating the streets and the appropriate easements and public areas to the Village. In the case of private streets, the required homeowner association documentation and deed restrictions.
- (m) A statement signed by the owner setting forth the rights associated with the easements and reserve parcels shown on the plat.
- (n) If the submittal is for a section or portion of the property only, an overall plan of the entire property showing the general subdivision layout of the entire parcel.
- (o) A certification by a registered engineer or surveyor that the information contained on the plat is true and correct and conforms to the requirements of these Subdivision Regulations.
- (p) A release signed by any mortgage holders regarding the dedication of rights-of-way and other lands set aside for public purposes.
- (q) Evidence that any and all required approvals have been obtained from government agencies including but not limited to Ohio EPA, Army Corp of Engineers, Summit County Public Health, and Summit County Soil and Water.
- (r) An approval block for the endorsement of the plat by the Mayor, Village Engineer (or Zoning Officer in the absence of a Village Engineer), and the Village Fiscal Officer upon approval by the Village Council.

1159.09 SPECIAL PROCEDURES FOR MINOR SUBDIVISIONS.

Minor subdivisions may be approved for recordation by the Mayor and Village Engineer, or Zoning Officer in the absence of a Village Engineer, without referral to the Planning Commission or Village Council, provided that all appropriate requirements of the Zoning Code and Section 1159.10 of these Subdivision Regulations are met and the plat has received a favorable review by the Village Engineer or Zoning Officer in the absence of a Village Engineer. Where in the opinion of the Mayor or Engineer, or Zoning Officer in the absence of a Village Engineer, there are unusual conditions associated with a proposed minor subdivision, the plat shall be forwarded to the Planning Commission and follow the process outlined in Section 1159.07.

1159.10 SUBMITTAL REQUIREMENTS FOR MINOR SUBDIVISIONS.

Minor subdivision plats submitted for review and approval shall be prepared at a scale of 1" = 100' and shall contain the following:

- (a) A vicinity or location map at a scale of 1" = 1000' showing the relationship of the proposed subdivision to the surrounding area.
- (b) The name of the subdivision, north arrow, scale, and date.
- (c) The names of all adjoining property owners.

- (d) The accurate location of all required monuments.
- (e) The location of setback lines from public rights-of-way as required by the Zoning Ordinance.
- (f) If the submittal is for a section or portion of the property only, an overall plan of the entire property showing the general subdivision layout of the entire parcel.
- (g) A certification by a registered engineer or surveyor that the information contained on the plat is true and correct and conforms to the requirements of a minor subdivision of these Subdivision Regulations.
- (h) An approval block for the endorsement of the plat by the Mayor, Village Engineer (or Zoning Officer in the absence of a Village Engineer), and Village Fiscal Officer (if Council approval is necessary).

1159.11 GENERAL STREET DESIGN CRITERIA.

All construction pertaining to roads, drainage, and underground utilities shall conform to the Latest Edition of the "State of Ohio Department of Transportation Construction and Material Specifications", except as modified or otherwise specified herein.

- (a) All public streets shall provide a right -of-way dedication of not less than fifty (50) feet in width and provide a minimum pavement width of twenty-two (22) feet.
- (b) All cul-de-sac streets shall be provided with a turn-around which shall have a minimum 100 ft. diameter right-of-way and 80 ft. diameter pavement.
- (c) Whenever possible, streets shall be looped to provide more than one entrance and exit to the development. Intersections with existing rights-of-ways shall be maintained at a minimum necessary for proper traffic circulation. Streets shall be laid out so as to intersect as nearly as possible at right angles.
- (d) Street alignments should follow natural contours and be designed to conserve natural features. Stub streets should be eliminated unless such stub street is necessary based on an overall concept plan for the development of the adjacent property.
- (e) The area of the project devoted to streets and related pavement should be the minimum necessary to provide adequate and safe movement through the development.
- (f) Street names shall be approved by Council and shall not duplicate the names of existing streets within the Village.
- (g) The Village Engineer or Planning Commission may modify these standards based on unique topographic conditions, soil conditions, or other unusual conditions specific to the property being subdivided.
- (h) The Village Engineer or the Planning Commission may require a Traffic Impact Study based on the location of the development, the size of the development, and other unusual conditions of the specific property being subdivided.
- (i) Private streets may be permitted after review and approval of the Planning Commission. Private streets must meet the design criteria outlined in this section.
 - (1) In all cases where private streets are permitted, a Homeowners' Association shall be formed to control and maintain the streets. Homeowners' Association documents shall be submitted with the final plat and recorded with the subdivision.
 - (2) All responsibility and liability for private streets remain with the Homeowners' Association and owners of the lots served by the private street. Deed restrictions for private streets are required to include the following language: The undersigned grantee

(s) hereby acknowledge (s) that (he, she) understand that the premises described herein is located on a private non-dedicated street. The Homeowners' Association is responsible or liable for the care, repair, replacement, snow or ice removal, dust control, drainage, mowing, tree trimming, or maintenance of said private street. The Homeowners' Association for such Development shall indemnify, defend, and hold harmless all governmental bodies for any and all such claims of any kind or nature that may arise or be related to the private street.

1159.12 PEDESTRIAN CIRCULATION SYSTEMS.

- (a) A pedestrian circulation system shall be included and designed to ensure that pedestrians can walk safely and easily throughout the development. The pedestrian system shall provide connections between properties and activities or special features within the restricted open space system and need not always be located along streets.
- (b) Trails for which a public right of passage has been established should be incorporated in the pedestrian circulation system.
- (c) Sidewalks shall be located not less than one foot from the property line to prevent interference or encroachment by fencing, walls, hedges, or other planting or structures placed on the property line at a later date. When required, concrete sidewalks shall be at least four feet wide and four inches thick.

1159.13 MONUMENTS.

Permanent monuments of a type approved by the Village Engineer, or Zoning Officer in the absence of a Village Engineer, shall be set by a registered surveyor at locations directed by the Village Engineer or Zoning Officer.

1159.14 WATER.

All lots shall be served by either public water service as set forth in subsection (a) hereof, or by individual wells as set forth in subsection (b) hereof.

- (a) Where a public water main is accessible, the sub-divider shall install adequate water facilities, including fire hydrants, in accordance with the rules, standards, and specifications of the Village. Said water mains and appurtenances shall be inspected, tested, and approved by the Village prior to acceptance by the Village.
- (b) Where public water service is not available, lots may be served by individual water systems such as wells, cisterns, or other devices provided that such system is installed in accordance with the standards and regulations of the Village, is approved by Summit County Public Health, and such approval is filed with the Village Fiscal Officer.

1159.15 SANITARY FACILITIES.

Each lot shall be served by an adequate sanitary sewage collection and disposal system which shall be installed in accordance with the rules, regulations, standards, and specifications of Summit County Public Health and/or the Ohio EPA. No such sanitary system shall be installed or used except with the approval of Summit County Public Health. If a common on-site system is to be used, it shall not be located in the restricted open space.

1159.16 DRAINAGE.

- (a) An adequate storm drainage system shall be provided for each subdivision. Storm facilities shall be designed and constructed in accordance with standards established by the Village Engineer, as applicable, Summit Soil and Water and the Ohio EPA, in order to prevent flooding and properly dispose of storm waters.
- (b) Storm drainage facilities shall in each case be of sufficient capacity to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the subdivision.
- (c) No subdivision shall be approved that would overload the existing downstream drainage facilities until provisions for downstream improvements or on-site detention satisfactory to the Village Engineer, and as applicable, Summit Soil and Water and the Ohio EPA, have been made.
- (d) Measures shall be taken to minimize erosion and its impacts during construction. Detailed erosion control plans setting forth the techniques to be used and a schedule for implementation shall be submitted with the final plat. Techniques, devices, or measures used shall be as approved by the Village Engineer and as applicable, Summit Soil and Water and the Ohio EPA.

1159.17 EASEMENTS.

- (a) Where a subdivision is traversed by a water course, drainage way, channel, storm conduit, or stream, there shall be provided to the Village a storm water easement conforming substantially to the lines of such water course and containing such additional width as determined by the Village Engineer, or Zoning Officer in the absence of a Village Engineer. Said easement shall be duly recorded and require the property owner to be responsible for maintenance of the underlying water course, drainage way, channel, storm conduit, or stream but permitting the Village to enter upon the property to affect repairs or maintenance in the event the property owner fails to do so. Cost of said repairs or maintenance shall be a charge to the property owner.
- (b) Easements ten feet in width shall be provided adjacent to each side of and contiguous with all proposed rights-of-way. Such easements shall be usable for any and all utilities.
- (c) Utility or drainage easements across lots or alongside side or rear lot lines shall be a minimum of ten feet in width. The Village Engineer, or Zoning Officer in the absence of a Village Engineer, may require additional width where appropriate.

1159.18 LOTS.

- (a) Each lot shall have satisfactory access to a street.
- (b) Double frontage, reverse frontage, and irregularly shaped lots shall be avoided.
- (c) Lot lines shall be substantially at right angles or radial to street lines.
- (d) Lot dimensions shall comply with the minimum requirements of the Zoning Ordinance.
- (e) Lots shall be so arranged such that there will be no foreseeable difficulties in securing building permits.

1159.19 NATURAL FEATURES.

- (a) The Commission shall, wherever possible, establish the preservation of all-natural features that add value to residential developments and to the community, such as large wooded areas, watercourses, beaches, areas of historical significance, and similar irreplaceable assets.

1159.20 HILLSIDE REGULATIONS.

- (a) For the purposes of these Regulations, land with a slope of twelve percent (12%) or more as indicated by the Soil Survey or field measurements shall be classified as hillside.
- (b) Cuts and Fills. Cutting, excavation, grading, and filling shall be permitted where adequate provisions are made to prevent slides and erosion by cribbing and retaining walls or other measures acceptable to the Planning Commission.
- (c) No land shall be graded, cut, or filled so as to create a slope exceeding a vertical rise of one foot (1') for each two-and one-half feet (2-1/2') of horizontal distance, except water detention or retention facilities when required.
- (d) Use of individual wastewater treatment and disposal systems utilizing soil absorption is not recommended on hillside slopes. Lots requiring such systems will be permitted only if design details are approved by Summit County Public Health.

1159.21 LIGHTING.

Lighting within the public rights-of-way shall be limited to intersections for safety of vehicles and pedestrians. Street lighting shall not be permitted unless specifically authorized by the Village of Peninsula Council.

1159.22 BONDING REQUIREMENTS.

- (a) Performance Bonds. Prior to the endorsement of the plat by Village officials, the sub-divider shall install the improvements or furnish a bond or other security in a form and amount acceptable to the Village Council. Said bond shall guarantee completion of all required public improvements associated with the subdivision in accordance with the approved plans and specifications for said subdivision. All construction covered by the bond shall be completed within one year unless a greater period of time is approved by Council.
- (b) Maintenance Bonds. Upon completion of construction of public streets, the sub-divider shall furnish a bond providing for the maintenance of said streets for a period of two years from the date the Village Engineer, or Zoning Officer in the absence of a Village Engineer, certifies that the streets have been completed according to plan.
- (c) Indemnity Insurance. A policy of indemnity insurance in the amount of \$1,000,000/\$3,000,000 personal liability and \$100,000 property damage protecting the Village against any claims for damage to person or property resulting from or by reason of the construction of the subdivision improvements shall be furnished to the Village prior to the start of construction and be maintained in force by the sub-divider until all improvements are completed to the satisfaction of the Village Engineer, or Zoning Officer in the absence of a Village Engineer.

1159.23 VACATION OF PLATS.

Any plat or portion thereof may be vacated by the filing of a written instrument declaring said plat or portion thereof to be vacated. Such instrument shall be submitted to the Planning Commission, which shall review same and make a recommendation to Council. Council may approve, reject, or approve in part any such instrument. Upon approval by Council, said instrument may be recorded in like manner as plats of subdivisions and shall operate to destroy the force and effect of the plat, or portion thereof, so vacated.

1159.24 FEES.

Sub-dividers shall be responsible for payment of subdivision review fees and construction inspection fees in such amounts set forth herein:

Preliminary Plan: \$300 plus \$10 per lot

Final Plat: \$500 plus \$10 per lot

Minor Subdivision: \$70 per lot created or \$30 per lot if it is a combination or line adjustment

Vacation Plat: \$300

Plan Review and Field Inspection Fees: The Sub-divider shall pay to the Village the total cost of plan review and field inspection of the improvements. The Sub-divider is held responsible for all fees, which will be payable upon invoice. The Performance Bond posted by the Developer must guarantee the payment of all Fees, and no Bonds will be released until all Fees have been paid in full.

1159.99 VIOLATIONS AND PENALTIES.

- (a) Any person, firm, or corporation who fails to comply with, or violates, any of the regulations set forth herein or fails to comply with any order issued pursuant thereto, shall be guilty of a misdemeanor of the first degree, be subject to up to six months in jail, a fine of not more than one thousand dollars (\$1,000) per violation, and the forfeiture of all fees paid to date.
- (b) Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these Subdivision Regulations; prevent unlawful construction; recover damages; or restrain, correct, or abate a violation. These remedies shall be in addition to the penalties described above.