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# ZONING CODE

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## **VILLAGE OF FAIRFAX, OHIO**

Adopted by the Council  
of the  
Village of Fairfax, Ohio

September 23, 1955  
and as amended October 25, 2000  
and August 15, 2001  
and February 17, 2002  
and August 19, 2002  
and September 15, 2003  
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and June 20, 2005  
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and August 21, 2006  
and October 16, 2006  
and February 20, 2007  
and December 21, 2009  
and March 16, 2015  
and June 20, 2016



# THE VILLAGE OF FAIRFAX, OHIO



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## **CHAPTER 1 GENERAL PROVISIONS**

### **1.0 Preamble**

An Ordinance of the Village of Fairfax enacted in accordance with a Comprehensive Land Use Plan and for the purpose of promoting the public health, safety, morals, convenience, and general welfare establishing land use classifications, dividing the Village into districts, imposing regulations, restrictions, and prohibitions on the use and occupancy of real property limiting the height, area, and bulk of buildings and other structures and providing for yards and other open spaces around them establishing standards of performance and design and providing for the administration and enforcement thereof.

### **1.1 Title**

These Chapters shall be known and may be cited and referred to as the Zoning Code of the Village of Fairfax, Ohio.

### **1.2 Interpretation of Standards**

In their interpretation and application, the provisions of these Chapters shall be held to be minimum requirements. Wherever these Chapters impose a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or Ordinances, the provisions of these Chapters shall govern.

### **1.3 Separability**

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

### **1.4 Rules for Text Interpretation**

In the interpretation of the text of this Code, the rules of interpretation contained in this Section shall be observed and applied, except when the context clearly indicates otherwise. The following rules shall apply to the text:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text and any table, the text shall control.

- C. The word “shall” shall be mandatory and not discretionary. The words “may” or “should” shall be permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, or “occupied for”.

## **1.5 Adult Entertainment Provisions**

In adopting all of the provisions pertaining to Adult Entertainment Facilities set forth in the Zoning Code, the Council of the Village of Fairfax hereby states as follows:

- A. All such provisions are adopted to protect the public peace, health, safety, and general welfare.
- B. All such provisions are adopted to combat the harmful secondary effects associated with Adult Entertainment Facilities. The Village hereby recognizes and specifically relies upon the studies of the harmful secondary effects of Adult Entertainment Facilities, and all other recitations of those secondary effects, set forth in the United States Supreme Court's decisions in Renton v. Playtime Theatres, 475 U.S. 41 (1986), Young v. American Mini Theatres, Inc., 427 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and all other applicable case law. See City of Erie v. Pap's A.M., 529 U.S. 277 (2000). Based on its review of those decisions and its familiarity with the Village as a whole, Council believes that the harmful secondary effects set forth in the foregoing decisions are relevant to the Adult Entertainment Facilities which the Village regulates in this Zoning Code.
- C. Council finds that the harmful secondary effects associated with Adult Entertainment Facilities are detrimental to the public peace, health, safety, and general welfare.
- D. No such provision is adopted to regulate, limit, or suppress the content or flow of speech or free expression. Any limitation on speech or expression which results from the provisions of this Zoning Code's regulation of Adult Entertainment Facilities is unintended and purely incidental to the Village's attempt to combat the harmful secondary effects of Adult Entertainment Facilities.

## **CHAPTER 2 DEFINITIONS**

### **2.0 Definitions**

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms not specifically defined shall have their ordinarily accepted meaning.

#### **2.01 Adult Entertainment Facility.**

1. An Adult Entertainment Facility is hereby defined to include any of the following listed and defined facilities:

A. "Adult arcade" -- an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, including computers or Internet transmitting devices, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

B. "Adult bookstore," "adult novelty store," or "adult video store" -- a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations including computer-related material, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;"
2. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others;
3. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "specific sexual activities" or "specified anatomical areas", and still be categorized as an "adult bookstore," "adult novelty store," or "adult video store." Such other business

purposes will not serve to exempt such establishments from being categorized as such so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

- C. "Adult cabaret" -- a nightclub, bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly feature persons who appear in a state of nudity or semi-nudity, expose their "specified anatomical areas, " or depict or describe "specified sexual activities."
- D. "Adult motel" -- a motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material; or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows tenant or occupant to sub-rent the sleeping room for a time period of less than (10) hours.
- E. "Adult motion picture theater" -- a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.
- F. "Adult theater" -- a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity, expose their "specified anatomical areas," or depict or describe "specified sexual activities."
- G. "Escort" -- a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- H. "Escort Agency" -- a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as

one of its primary business purposes for a fee, tip, or other consideration.

- I. "Massage Parlor" -- any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of Adult Entertainment Facility shall not include the practice of massage in any licensed hospital or by a licensed hospital, by a licensed physician, surgeon, chiropractor or osteopath, by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, or by any massage therapist or technician board certified by the State of Ohio.
- J. "Semi-nude model studio" -- any place where a person, who regularly appears in a state of semi-nudity or displays "specified anatomical areas," is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
- K. "Sexual encounter establishment" -- a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or activities for the purpose of exposing any person's "specified anatomical areas." The definition of Adult Entertainment Facility shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Ohio engages in medically approved and recognized sexual therapy.
- L. To the extent not defined above, an Adult Entertainment Facility includes any establishment involved in the sale or rental of service or products characterized by the exposure or presentation of "specified sexual activities" or "specified anatomical areas", and which is characterized by salacious conduct appealing the prurient interest for the observation or participation in by patrons. Services for products included within

the scope of an Adult Entertainment Facility include dancing, and any activity listed above or of the same character thereto.

2. "Establishment" means and includes any of the following:
  - A. the opening or commencement of any business as a new business;
  - B. the conversion of an existing business, whether or not an Adult Entertainment Facility, to any of the Adult Entertainment Facilities defined herein;
  - C. the addition of any of the Adult Entertainment Facilities defined herein to any other business;
  - D. the relocation of any Adult Entertainment Facility;
  - E. a business or other physical structure to which the general public, or certain segments thereof, is invited to partake in the activities provided therein.
3. "Nudity" or "state of nudity" means: (a) the appearance of human bare buttock, anus, male genitals, female genitals or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast. Semi-nudity means that state of dress where only the foregoing areas are covered fully and opaquely.
4. "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.
5. "Specified anatomical areas" means and includes any of the following: less than completely and opaquely covered human genitals, pubic region, buttocks, female breasts below a point immediately above the top of the areola; and male genitals in a discernibly turgid state even if completely and opaquely covered.
6. "Specified sexual activities" means and includes any of the following: the fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; actual or simulated sex acts, including without limitation sexual intercourse, oral copulation, or sodomy; actual or simulated masturbation; human genitals in a state of sexual stimulation or arousal; or excretory functions done in connection with any of the foregoing activities.
7. "Salacious conduct appealing to the prurient interest" is limited to the meaning given to it by applicable case law, including Brockett v. Spokane Arcades, 472 U.S. 491 (1985) and related case law. "Salacious conduct appealing to the prurient interest"



does not include a protected normal interest in sex as set forth in Brockett and related cases, but includes an abnormal, shameful, or morbid interest in sex.

- 2.002 Agriculture.** Agriculture is the use of land for agricultural purposes, including farming of crops, horticulture, floriculture, viticulture, and the necessary accessory uses for packing, treating, or storing the product; however, the operation of any such accessory uses shall be secondary to that of normal agricultural activities.
- 2.003 Alley.** An alley shall mean any public or private thoroughfare less than thirty (30) feet wide affording only secondary means of access to abutting properties.
- 2.004 Animal Hospital or Veterinarian Clinic.** An animal hospital or veterinarian clinic is a building used for the medical treatment, housing or boarding of domestic animals such as dogs, cats, rabbits and birds by a veterinarian.
- 2.005 Apartment.** See *Dwelling, Multi-family*.
- 2.006 Assisted Living:** An institution, residence or facility licensed by the State of Ohio that provides accommodation and personal assistance to more than three residents who are dependent on the services of others by reason of age and physical or mental impairment, but that is not licensed to provide skilled nursing care.
- 2.007 Automotive Service.** Automobile service is any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of parts to motor vehicles or trailers.
- 2.008 Automotive Sales and Automotive Sales Area.** Automotive Sales is the display or storage of new or used trailers or motorized vehicles (including but not limited to automobiles, trucks, scooters, motorcycles, and recreational vehicles) in substantially or fully operable or assembled condition for sale or rental. Automotive Sales does not include the sale of goods, products, or merchandise, or the provision of personal services, set forth in Subsection 2.105, Retail Sales and Service Shops. Automotive Sales Area is any area, whether open or enclosed, used for Automotive Sales.
- 2.009 Automotive Filling Station.** An automobile filling station is any building, or land area used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use, the sale and installation of lubricants, tires, batteries and similar accessories.
- 2.010 Automotive Wash or Automatic Car Wash.** An automotive car wash is a building or structure where chain conveyors, blowers, steam cleaners, or other mechanical devices are employed for the purpose of automatically or manually washing motor vehicles.

- 2.011 Basement.** A basement is a story partly underground and having at least one-half of its height above the average adjoining grade.
- 2.012 Bed and Breakfast Establishment.** A bed and breakfast establishment is any owner occupied dwelling unit that contains no more than four rooms where lodging, with or without meals, are provided for compensation.
- 2.013 Block.** In describing the boundaries of a district the word **Block** refers to the legal description. In all other cases the word **Block** refers to the property abutting on one side of a street between two intersecting streets or a street and a railroad right-of-way or watercourse.
- 2.014 Board.** The Zoning Board of Appeals of the Village of Fairfax.
- 2.015 Building.** A building shall mean any structure having placement on the ground used or intended to be used for the shelter or enclosure of persons, animals or property.
- 2.016 Building, Height of.** The height of a building shall mean the vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs.
- 2.017 Building Line.** The building line shall be the line, parallel to the street line, beyond which no building or part thereof shall project.
- 2.18 Buildable Lot Area.** The buildable lot area is the portion of a lot remaining after required yards have been provided.
- 2.018a Building and Related Trades:** Retail, wholesale or rental of building supplied or construction equipment, including, but not limited to, lumberyards, home improvement sales and services, and tool and equipment sales or rental establishment.
- 2.019 Bulk Storage or Display.** Bulk storage or display shall mean the display of two or more items which are identical or nearly identical examples of which would include but are not limited to raw materials, firewood, mulch, fertilizer, building materials, building maintenance products, packaged food products, soft drinks, salt products, furniture and household goods, statuary and other manufactured concrete products, and like items.
- 2.019a Business Services.** Establishments primarily engaged in rendering services to residential or other business establishments on a fee or contract basis, on site or off site, including, but not limited to, services such as appliance repair, electronics repair, advertising and mailing, building maintenance, personnel and employment services, management

and consulting services, protective services, office supply, document delivery, mail receiving and boxes, blueprinting, typesetting, copying, desktop publishing, and photographic services.

**2.020 Carport/Carporch.** See Garage.

**2.021 Cellular or Personal Communications Antenna.** Any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers or other personal communications devices and ground-wired communications systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to service personal communication services.

**2.022 Cellular Communications/Personal Communications Services Sites.** A tract, lot or parcel of land that contains the cellular communications tower, antenna, support structure(s), parking and any other uses associated with and ancillary to cellular communications and personal communications services transmissions.

**2.023 Cellular Communications/Personal Communications Services Support Structure.** Any building or structure accessory to, but necessary for the proper functioning of the cellular or personal communications antenna or tower.

**2.024 Cellular/Personal Communications Services Tower.** Any freestanding structure used to support a cellular or personal communications services antenna.

**2.025 Cellular/Personal Communications Services Tower, Height Of.** The height from the base of the structure to it's top; including any antenna located thereon.

**2.026 Cemetery.** A cemetery is land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries, if operated in connection with, and within the boundaries of, such cemetery.

**2.027 Clinic.** A clinic shall mean a human place used for the care, diagnosis, and treatment of sick, ailing, infirm, and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises.

**2.028 Club.** A club shall mean a nonprofit association of persons who are bona fide members paying regular dues, and are organized for some common purpose, but excluding religious places of worship or a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

**2.029 Commercial Communication Antenna.** A commercial communication antenna is a tower, pole or other similar device, erected on the ground or roof top, for the purpose of transmitting or receiving radio, micro, cellular, or other electromagnetic waves between terrestrially and/or orbitally based uses.

**2.0295 Commercial Vehicle.** Any vehicle, whether or not self-propelled:  
(A) which constitutes a semi-truck, tractor-trailer, road tractor, towing engine, flat-bed truck, cement truck, dump truck, stake-bed truck, step van, tank truck, tar truck, tow truck, wrecker, or other similar vehicle ordinarily used for commercial purposes; or

(B) which possesses one or more of the following characteristics:  
(1) is greater than eighty (80) inches in width;  
(2) is greater than ten thousand (10,000) pounds in weight;  
(3) has more than two (2) axles; or  
(4) is equipped with air brakes, refrigeration equipment, hydraulic lifts, cranes, loading ramps, or similar equipment;  
or

(C) which is not a Recreational Vehicle, a Service Vehicle, or a vehicle customarily kept for utility and/or enjoyment on single family lots.

**2.030 Commission.** The Village Planning Commission of the Village of Fairfax, Ohio.

**2.031 [Reserved]**

**2.032 Council.** The Village Council of the Village of Fairfax, Ohio.

**2.033 Court.** A court is an open unoccupied, and unobstructed space, other than a yard, on the same lot with a building or group of buildings, which is enclosed on three or more sides fully open to the sky.

**2.034 Day Care.** Day care shall mean a building or structure where education, supervision, or personal care services are provided on less than a 24 hour basis, for a fee, at least twice a week, to more than five minor children at one time, including any relation of the day care provider.

**2.035 District.** A district is a portion of the territory of the Village, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Code. This Zoning Code is not applicable to districts or areas outside its legal boundaries.

**2.036 Drive-in Facility.** A drive-in facility shall be any portion of a building or structures from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

- 2.037 Dwelling.** A dwelling is any building or portion thereof designed or used exclusively as the residence or sleeping place of one, two and three families, but not including a tent, cabin, trailer or trailer coach, boarding or rooming house, hotel, or mobile home.
- 2.038 Dwelling, Multi-family.** A multi-family dwelling is a building or portion thereof designed for or used by four or more families or housekeeping units, living independently of each other, with cooking and sanitary facilities in each dwelling unit.
- 2.039 Dwelling, Secondary.** A secondary dwelling shall mean the addition of a second independent dwelling, attached or detached to the primary single family dwelling, housing a relative related by blood or marriage on the same lot.
- 2.040 Dwelling, Single-family Detached.** A single-family dwelling is a building designed for or used exclusively for residence purposes by one family or housekeeping unit.
- 2.041 Dwelling, Two-family and three-family.** A two-family and three-family dwelling is a building designed for or used exclusively by two or three families or housekeeping units, living independently of each other, with cooking and sanitary facilities in each dwelling unit.
- 2.041a Eating and Drinking Places:** Establishments where prepared and ready-to-consume food and beverages are available to the general public for consumption on or off the premises.
- 2.042 Educational Institution.** An educational institution is a facility that provides a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools and technical and collegiate level courses.
- 2.042a Entertainment Establishments:** Establishments operated as a business that are open to the general public for a fee and which primarily provide entertainment or amusement including, but not limited to, performing arts centers, theaters, movie theaters, billiard parlors, video amusement arcades, miniature golf, and bowling alleys.
- 2.043 Essential Services and Utilities.** Essential services and utilities are the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public health, safety, or general welfare.

- 2.044 Exotic wildlife.** Indigenous or non-indigenous wildlife, including those animals that could be considered dangerous but not limited to lions, tigers, ocelots, jaguars, leopards, mountain lions, cheetahs, lynx, bobcats, jaguarundi, bears, hyenas, wolves or coyotes, or any life-threatening reptiles and arachnids, including but not limited to crocodilians, poisonous reptiles and tarantulas.
- 2.045 Family.** Family shall mean one or more individuals living together as a single housekeeping unit in a dwelling, and maintaining and using the same and certain other housekeeping facilities in common.
- 2.046 Fence.** A fence shall mean an artificial or natural barrier or divider intended to prevent escape or intrusion, to mark a boundary, or to enclose an area.
- 2.047 Financial Institution.** A financial institution is any building, property or activity of which the principal use or purpose of which is the provision of financial services including but not limited to banks, facilities for automated teller machines (ATM's), credit unions, savings and loan institutions and mortgage companies.
- 2.048 Floor Area.** The floor area is the sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the centerline of party walls, including the floor area of accessory buildings and structures.
- 2.049 Floor Area Ratio.** Floor area ratio is the total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.
- 2.050 Frontage.** Frontage shall mean all the property abutting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of a dead-end street, or Village boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.
- 2.051 Frontage, Where Measured.** The frontage of a lot shall be measured along the front property line.
- 2.052 Funeral Home.** A funeral home shall mean any dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.
- 2.053 Garage, Private.** A private garage shall mean an attached or detached accessory building or a portion of the principal building used only for the storage of automobiles or trailers by the family resident on the premises. A carport or carporch shall be construed to be a private garage.
- 2.054 Garage, Public.** A public garage shall mean a structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair, or refinishing of automobiles or trailers.

**2.054a Garden Centers, Greenhouses and Nurseries:** Establishments engaged in the retail sale of garden supplies and plants grown on the premises or elsewhere. This classification includes the sale of landscape materials, topsoil and rental of landscaping equipment.

**2.055 Grade plane.** A reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building, between the building and a point 6 feet (1829 mm) from the building.

**2.056 Group Home.** A group home means any licensed residential facility designed to allow not more than eight (8) persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate activity in a non-institutional environment.

**2.057 Hedge.** A hedge is a growth of shrubbery or ornamental landscaping planted to function as a boundary or fence.

**2.058 Height.**

**Building:** The vertical distance from grade plane to the average height of the highest roof surface.

**Story:** The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

**2.059 Home Day Care.** Any Day Care, as defined herein, which takes place at any residence in the Village.

**2.060 [Reserved]**

**2.061 Home Occupation.** A home occupation is any occupation, profession, activity or use which is customarily incidental to the principal use of the premises and is conducted by a resident occupant which does not alter the exterior of the property or affect the residential character of the neighborhood.

**2.062 Hospital.** A hospital is an institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices that are an integral part of the facilities.

**2.063 Hotel.** A hotel is a facility with room entrances accessed through an interior corridor, offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

- 2.064 Impervious Surface Ratio.** The impervious surface ratio is a measure of the intensity of land use that is determined by dividing the total area of all impervious surfaces on the site by the area of the site or lot.
- 2.065 Industry.** Industry is any storage, manufacture, preparation, or treatment of any article, substance or commodity for commercial use.
- 2.066 Kennel.** A kennel is any lot or premises on which at least four domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, sold, or which offers provisions for medical treatment. An animal is boarded if it is on the lot or premises for all or any part of a 24-hour period.
- 2.067 Kitchen.** Any room in a building or dwelling unit which is used for cooking or preparing food.
- 2.068 Land Use Plan or Redevelopment Plan.** The land use or redevelopment plan of the Village of Fairfax as adopted by Village Council indicating the desirable use of land in the Village as officially adopted and as amended by the Village Planning Commission. The purpose of such plan is to serve as a guide in the review of zoning changes and to aid in the acquisition of rights-of-way or sites for public purposes such as streets, parks, public buildings or other municipal uses.
- 2.069 Livestock.** Hoofed mammals, including but not limited to horses, cattle, sheep, swine, goats, bison, llamas, and other species typically raised for food, fiber or draft. Also includes domestic fowl and game birds.
- 2.070 Loading Space.** A loading space shall mean an off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
- 2.071 Lot.** A lot is a piece or parcel of land occupied or intended to be occupied by a principal building or a group of buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces required by this Code, and having frontage on a public street.
- 2.072 Lot Area.** Lot area is the computed horizontal area contained within the lot lines.
- 2.073 Lot, Corner.** A corner lot is a lot abutting on two or more streets at their intersection or on two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.
- 2.074 Lot Depth.** Lot depth is the average horizontal distance between the front and the rear lot lines.
- 2.075 Lot Line, Front.** The front lot line is the line separating the lot from the street or streets.



- 2.076 Lot, Interior.** The interior lot is a lot other than a corner lot and with frontage on one street.
- 2.077 Lot Lines.** Lot lines are the property lines bounding the lot.
- 2.078 Lot Line, Rear.** The rear lot line is the lot line opposite and most distant from the front lot line.
- 2.079 Lot Line, Side.** The side lot line is any lot line other than a front or rear lot line.
- 2.080 Lot Line, Street or Alley.** A street or alley lot line is a lot line separating the lot from a vehicular public or private right-of-way.
- 2.081 Lot of Record.** A lot of record is a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Hamilton County, Ohio, or a lot described by metes and bounds, the description of which has been recorded in such office prior to the adoption of this Zoning Code.
- 2.082 Lot, Through.** A through lot is a lot having frontage on two parallel or approximately parallel streets.
- 2.083 Lot Width.** The lot width is the width of the lot measured at right angles to the building setback lines.
- 2.084 Manufacturing.** Manufacturing is the process of making or fabricating raw materials by hand, machinery or the combination thereof into finished parts or products.
- 2.085 Motel.** A motel is a facility, with exterior room entrances, offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.
- 2.086 Non-conforming Use.** See definition 2.144, Use, Non-conforming.
- 2.087 Nuisance.** A nuisance is any condition defined as such by law, including but not limited to any condition which is noxious, offensive, unsanitary, or dangerous as experienced by a person of reasonable sensibility off the premises where the condition is created, or which is otherwise a menace to, or otherwise threatens the health, comfort, safety, or welfare of the public. Such conditions include, but are not limited to, conditions pertaining to noise, vibration, odor, smoke, dust, heat, glare, light, x-rays, radiation, and electrical interference.
- 2.087a Nursing or Convalescent Home:** A home, institution, building or residence, public or private, whether operated for profit or not, presently licensed pursuant

to the Ohio Revised Code, which provides maintenance, personal care or nursing to ill, physically infirm, convalescing, or aged persons who are not related by blood or marriage to the operator. The definition of nursing or convalescent homes does not include hospitals, clinics or similar institutions which are devoted primarily to the diagnosis and treatment of the sick or injured, but does include a housing development that provides a full range of accommodations and services for older adults, including independent living, congregate housing (self-contained apartments) and medical care.

- 2.088 Office.** An office is a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.
- 2.089 Open Space.** Open space is land used for resource protection, recreation, amenity and/or buffers.
- 2.090 Parking Area, Private.** A private parking area shall mean an open area for the same uses as a private garage.
- 2.091 Parking Area, Public.** A public parking area shall mean an open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free, or as an accommodation for clients or customers.
- 2.092 Parking Space.** A parking space shall mean a permanently surfaced area of not less than 160 square feet and having a width of not less than 9', either within a structure or in the open, exclusive of driveways or access drives, for the parking of motor vehicles.
- 2.0925 Pavement.** A concrete surface with a minimum thickness of four (4) inches is designed to resist a severe weathering exposure as determined by the Building Code, or an asphalt surface with a minimum compacted thickness of two (2) inches which is placed on a minimum six (6) inch compacted crushed granular base.
- 2.093 Personal Services.** Personal services are activities conducted in an office, store or other place of business catering to the personal needs of a customer, such as normally conducted by a barber, beautician, tailor, dressmaker, doctor, attorney, architect or a photocopy duplication center.
- 2.094 Pet, Household.** Domesticated animals that share the same domicile or premises with humans; are dependent upon humans for food, water and shelter; and are kept as companions, including but not limited to dogs, cats, caged birds of a variety of species, rodents, rabbits, and nonpoisonous reptiles and amphibians, that are not included in the definitions of livestock and exotic wildlife or kennel.
- 2.095 Printing and Related Trades.** Printing and related trades shall mean an establishment that provides duplicating services using photocopy, blueprint

and/or offset printing equipment including the collating of booklets and reports. Printing and related trades shall not include copy service centers or self-service copy centers that primarily utilize photocopy machines as their source of duplication.

**2.095a Professional Offices:** Facilities or firms that primarily provide professional, executive, management or administrative services, such as accounting, advertising, architectural, city planning, computer software consulting, data management, engineering, environmental analysis, insurance, interior design, investment, graphic design, landscape design, law and real estate offices, drafting and recording studios, tax preparation, psychological counseling, real estate brokering, securities brokering, and medical, optical, and dental laboratories. This definition excludes medical offices, banks, credit unions, and savings and loan associations, and offices that are incidental to retail, production, storage or other activities.

**2.096 Public Building.** A public building is a structure or portion of a structure owned, operated or controlled by a government agency for the performance of certain specialized governmental activities required for day to day functions.

**2.097 Recreation, Commercial:** Commercial recreation is any land or facility operated as a business and which are open to the general public for a fee, that include, but are not limited to, rollerblade rental, bike rental, pay-to-play athletic fields or courts, golf courses, ice skating rinks, or swimming pools.

**2.098 Recreation, Non-Commercial:** Non-commercial recreation is any land or facility operated by a governmental agency or non-profit organization and open to the public or members of the non-profit organization without a fee that include, but are not limited to, picnic areas, playgrounds, bike/hike trails, public golf courses, athletic fields, swimming pools, or community centers.

**2.099 Recreational vehicle.** Any vehicle and/or portable structure that is commercially designed, manufactured, and marketed to be used as a temporary dwelling for travel, recreational, and vacation use, whether or not it is self-propelled or designed to be attached to a motor vehicle. Any vehicle or portable structure not commercially designed, manufactured, and marketed for use as a temporary dwelling for travel, recreational, and vacation use is not a Recreational Vehicle.

**2.101 Religious Places of Worship.** A religious place of worship is an institution that a congregation of people regularly attend to participate in or hold religious services, meetings and other activities, including buildings in which the religious services of any denomination are held.

**2.102 Research and Development Laboratory.** A research and development laboratory shall mean a building in which scientific research, investigation, testing

or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental to the main purpose of the laboratory.

**2.103 [Reserved]**

**2.104 [Reserved]**

**2.105 *Retail Sales and Service Shops:*** A building, property, or activity, the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer. In addition, this definition includes the provision of personal services, including, but not limited to barber shops, beauty parlors, nail salons, tanning salons, massage therapy, electrolysis, seamstresses, tailors, shoe repair, dry cleaners (excluding dry cleaning plants), self-service laundries, photographic studios, medical offices, banks, credit unions, and savings and loan associations.

**2.106 *Right-of-way.*** A right-of-way (R.O.W.) is land dedicated to or owned by the public for use as a roadway, walk or other way.

**2.107 *Satellite Dish.*** A satellite dish is a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn or tower. Such device shall be used only to receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. Satellite dishes include but are not limited to TVRO's (television reception only satellite dish antennas) and satellite microwave antennas.

**2.1075 *Service Vehicle.*** A two-axle vehicle, such as a box truck, a box van, a pick-up truck, or a sport utility vehicle, which may have a ladder rack, a tool box, a snow plow, and/or a company name and logo, etc. on the vehicle.

**2.108 *Setback.*** The setback is the required minimum horizontal distance between the building line and the related front, side or rear property line.

**2.109 *Shopping Center.*** A shopping center is a grouping of retail and service uses on a single site that is developed, owned and managed as a unit with off-street parking as an integral part of the unit.

**2.110 *Sign.*** A sign is an outdoor structure, device or visual communication designed or intended to convey information to the public in written or pictorial form.

**2.111 *Sign, Aerial.*** An aerial sign is any balloon, or other airborne floatation device which is tethered to the ground or to a building or other structure which directs attention to a business, commodity, service, or entertainment conducted, sold or offered.

- 2.112 Sign, Construction.** A construction sign is a temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.
- 2.113 Sign, Directional.** A directional sign is any on-premise sign giving directions, instructions, or facility information but shall not contain the name or logo of an establishment nor any advertising copy.
- 2.114 Sign, Freestanding.** A freestanding sign is any permanent sign not attached to a building. This shall include signs attached to poles and signs attached directly to the ground.
- 2.115 Sign, Ground Mounted.** A ground mounted sign is any freestanding sign, other than a pole mounted sign, independently supported on structures anchored to the ground or mounted on a decorative wall or fence.
- 2.116 Sign, Informational.** An informational sign is any off-premises sign located in the public right-of-way that is intended to direct vehicular or pedestrian traffic, giving direction or instructions, but shall not contain any commercial message or advertising copy.
- 2.117 Sign, Non-conforming.** A non-conforming sign is a sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.
- 2.118 Sign, Political.** A political sign is a temporary sign which announces the candidacy of a person or slate or persons running for elective office, or a political party or issue.
- 2.119 Sign, Portable Sidewalk.** A portable sidewalk sign (or, "Sidewalk Sign") is a portable, two-sided sign structure used primarily, but not necessarily exclusively, for the advertisement of daily, weekly, or similarly temporary specials, or any sign with similar characteristics.
- 2.120 Sign, Portable.** A portable sign is a sign which is movable and which is not permanently attached to the ground, a structure or other signs, and is designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.
- 2.121 Sign, Projecting.** A projecting sign is a sign supported by a building wall or column and extending a distance exceeding twelve (12) inches from the wall.
- 2.122 Sign, Real Estate.** A real estate sign is a temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

- 2.123 Sign, Subdivision.** A subdivision sign is any ground mounted or wall sign identifying a recognized subdivision, condominium complex, residential development or commercial development.
- 2.124 Sign, Temporary.** A temporary sign is any sign constructed of wood and cardboard or of wire frame and plastic or any similar material not suited for long-term use.
- 2.125 Sign, Wall.** A wall sign is any sign which is located on or formed by the surface of the wall of a building. A mansard roof or canopy shall be considered part of the wall.
- 2.126 Sign, Window.** A window sign is a sign installed inside a window and intended to be viewed from the outside.
- 2.127 Sign, Area of.** The area of a sign is the entire area within a continuous perimeter enclosing the extreme limits of the sign display, including any frame or border. The copy of signs composed of individual letters, numerals or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices.
- 2.128 Site Plan.** A site plan is a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, topography, vegetation, site elements, utilities, uses and principal site development features proposed for a specific parcel of land.
- 2.129 Standard, Performance.** A performance standard is a criterion established to protect the public from nuisance.
- 2.130 Story.** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.
- 2.131 Story above grade.** Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is:
1. More than six (6) feet above grade plane;
  2. More than six (6) feet above the finished ground level for more than 50 percent of the total building perimeter, or
  3. More than twelve (12) feet above the finished ground level at any point.
- 2.132 Street.** A street is a public right-of-way which provides a public means of access to abutting property for motor vehicles.
- 2.133 Structure.** A structure shall mean anything constructed and located on the ground or attached to something having a location on the ground. The definition of structure is all inclusive and includes buildings, accessory buildings, decks,

fences, HVAC equipment, signs and other such items. Whenever this Code indicates the term building or similar term, the Code is also referring to a structure and the applicable restrictions shall apply.

**2.134 Structure, Accessory.** See: Use, Accessory or Accessory Structure.

**2.135 Structural Alteration.** Structural alteration shall mean any change in the structural members of a building, such as walls, columns, beams, or girders.

**2.136 Swimming Pool.** A swimming pool is any structure located inground or above ground containing, or normally capable of containing, water to a depth at any point greater than 24 inches for the purpose of recreation, sports activity, or swimming.

**2.137 [Reserved]**

**2.138 Trailer Home or Mobile Home.** (Including *Motor Home, Automobile Trailer, Trailer Coach, or House Trailer.*) A trailer home or mobile home shall mean any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade, or occupation or use as a selling or advertising device, or use for storage or conveyance for goods, equipment, or machinery and so designed that it is or can be mounted on wheels and used as a conveyance on highways and streets propelled or drawn by its own or other motor power.

**2.139 Trailer, Educational.** An educational trailer is any trailer, mobile unit, or van that is used exclusively for the purpose of instruction or activities related to instruction by a school of general education.

**2.140 [Reserved]**

**2.141 Use.** The term use shall mean the purpose for which land or a building or structure is arranged, designed, or intended, or for which either land or a building or structure is, or may be, occupied or maintained.

**2.142 Use, Accessory or Accessory Structure.** A use or structure subordinate to the principal use of a building or to the principal use of land, which is located on the same lot as the principal use, and which is serving a purpose customarily incidental to the use of the principal building or land use. An accessory structure is not to be built until or unless there is a principal structure.

**2.143 Use, Conditional.** Conditional use is a use which is permitted in a district only if a zoning certificate therefore is expressly authorized by the Planning and Zoning Commission in accordance with Section 21.2 (C & D).

**2.144 Use, Non-conforming.** A non-conforming use is any building, structure, premises or land use legally existing or used at the time of adoption of this Code,

or any amendment thereto, and which does not conform with the use regulations of the district in which located. Any such building, structure, premises or land use conforming in respect to use but not in respect to height, area, yards, or courts, or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.

- 2.145 Use, Principal Permitted.** Principal permitted use is a use which is permitted outright in a district for which a Zoning Certificate shall be issued by the Village provided that the applicant meets the applicable requirements of this Code.
- 2.146 Used.** The word used shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used.
- 2.147 Variance.** A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public health, safety, or welfare and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in practical difficulty.
- 2.148 Vehicular Use Area.** A vehicular use area is a paved lot utilized for the parking of motor vehicles.
- 2.149 Village.** Village shall mean all of the land located within the jurisdictional boundaries of the Village of Fairfax, Ohio.
- 2.150 Warehouse and Wholesale Establishments:** Establishments that are primarily engaged in the indoor or outdoor storage and/or sale of goods, materials, or merchandise for shipment to or processing on other property.
- 2.150 Wireless Communication Systems.** See Cellular or Personal Communication.
- 2.152 Yard.** A yard shall mean an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward.
- 2.153 Yard, Front.** Front yard shall mean a yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot, usually the building line.
- 2.154 Yard, Front, How Measured.** Front yard, how measured shall mean that such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line) to the closest point of a principal building, provided, however, that if the proposed location of the right-of-way line of such street as established on the Thoroughfare Plan or on the official map of the Village differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on the Thoroughfare Plan or official map. Corner lots shall have two front yards.



When a difference exists between the thoroughfare plan and the existing right-of-way, the applicant must decide which right-of-way they will use. The front yard setback will be reduced if the existing right-of-way is used and later, the Village implements the thoroughfare plan right-of-way.

- 2.154a Yard, Front, Designated.** Designated front yard shall mean the front yard of a lot, except that for corner lots the front yard with the smallest dimensions shall be designated front yard. When the designated front yard cannot be determined by this method, the Building Official or the Board of Zoning Appeals, as appropriate, shall determine the designated front yard as to any permit, application, enforcement action, appeal, or other proceeding where such a determination is necessary. Such determination shall be based on applicable industry standards, taking into consideration the character of the subject property and the purpose of this Code's regulation of a designated front yard.
- 2.155 Yard, Rear.** Rear yard shall mean a yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line to the closest part of a principal building.
- 2.156 Yard, Side.** Side yard shall mean a yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line to the side of a principal building, and a line parallel thereto on the lot.
- 2.157 Yard, Side, Least Width, How Measured.** Side yard, least width, how measured shall mean that such width shall be measured from the nearest side lot line to a principal building.
- 2.158 Zoning Permit.** Zoning Permit shall mean a document issued by the Village authorizing buildings, structures, or uses consistent with the terms of this Code and for the purpose of carrying out and enforcing its provisions.
- 2.159 Zoning Map.** The zoning map shall mean the zoning map of the Village, together with all amendments subsequently adopted.



**CHAPTER 3  
DISTRICT ESTABLISHMENT AND MAP**

**3.0 Division of Village into Districts**

The Village is hereby divided into eight use districts as follows:

<u>Abbreviation</u>	<u>District</u>
C	Village Residential
D	Transitional Village Residential
E	Business Mixed Use
F	Business Mixed Density Residential – Office
G	Redevelopment and Reinvestment
H	Reinvestment
I	Redevelopment and Reinvestment
PUD	Planned Unit Development

**3.1 Revised Zoning Map**

The districts established in Section 3.0 are shown on the Revised Zoning Map which, together with all explanatory matter therein, is hereby adopted as part of this Zoning Code and is hereby incorporated by reference into this Zoning Code. The Revised Zoning Map, properly attested, shall remain on file in the office of the Village Administrator or their designee.

**3.2 Interpretation of District Boundaries**

Except where referenced on the map to a street or alley line or other designated line by dimensions shown on the map, the district boundary lines follow lot lines or the center lines of streets or alleys as they existed at the time of adoption of this Code, but where a district line obviously does not coincide with the lot lines as such, or center lines of streets or alleys, or where it is not designated by dimensions, it shall be determined by the use of the engineer's scale as measured on the Official Zoning Map.

When the streets or alleys on the ground differ from the streets or alleys on the Official Zoning Map, the Board of Appeals may apply the Zoning District designations on the map to the property on the ground in such a manner as to conform to the intent and purposes of this Section in the judgment of the Board.

### **3.3 Lot Divided, Extension of District**

Where a district boundary line established in this Section or as shown on the Zoning Map divides a lot which was in single ownership at the time of enactment of this Chapter, the use authorized thereon and the other district requirements applying to the more restricted portion of such lot under this Chapter shall be considered as extending to the entire lot.

### **3.4 Vacated Street or Alley**

Whenever any street, alley, or other public way is vacated by official action as provided by law, the zoning district adjoining the side of such public way shall be extended automatically, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall thenceforth be subject to all regulations of the extended district.

### **3.5 Annexations**

At Council's discretion, all territory which is annexed to the Village shall be classified into one or more appropriate zoning classes set forth in this Code at the time annexation takes place. If Council makes no such classification at the time annexation takes place, the annexed territory, and each parcel thereof, shall maintain the same class as it previously had in its prior political subdivision. If no such class exists, the owner of each parcel of the territory shall petition Council within 30 days of annexation to so designate the classification of each such parcel. During the time in which no such designation has yet been made by Council, the owner of each such parcel shall not alter the existing use of the parcel.

### **3.6 Conformance with Regulations**

Except as hereinafter specified:

- A. No land shall be used except for a use permitted in the Zoning District in which it is located, or for a use conditionally permitted and subject to the issuance of a Conditional Use Permit.
- B. No building or structure shall be erected, converted, enlarged, reconstructed, nor shall any building be moved onto a zoning lot or within the same zoning lot, unless it is a use permitted in the Zoning District in which such building is located, except as provided for elsewhere in this Code.

No parcel of land nor lot shall hereafter be created which does not conform to, and meet the requirements of these regulations.

- C. Every building or structure hereafter erected or structurally altered shall be located on a lot as herein defined.

**CHAPTER 4  
SUPPLEMENTAL DISTRICT REGULATIONS**

**4.0 Residential Conversions to Accommodate a Greater Number of Dwelling Units**

This Section shall enable the owner of a dwelling unit to convert the structure to accommodate additional dwelling units, provided the following criteria are met:

- A. When completed, the conversion shall conform to all the requirements for new construction of the Zoning District in which it is located, including use, density, lot size, yard requirements, and all other restrictions mandated by this Zoning Code.
- B. Additional off-street parking must be provided in accordance with the requirements of Chapter 16, Off-Street Parking and Loading.
- C. In no case shall a conversion result in the creation of a new dwelling unit which has a floor area of less than 400 square feet.
- D. Each proposed dwelling unit shall be served by municipal water and sewer facilities.

**4.1 Regulations for Drive-In, Drive-Through, or Carry Out Eating and Drinking Places**

In addition to the other relevant District regulations, drive-in, drive-through or carry-out eating and drinking places shall be reviewed by the Planning Commission during Site Plan Review as required by Chapter 20 and 21 and shall be further regulated as follows:

- A. The location must be located on or near a major street; said street must be adequate to carry the additional traffic generated by the establishment. The Village may require the preparation of a traffic impact study by a qualified traffic engineer to determine the adequacy of the roadway and determine any necessary off-site roadway improvement.
- B. A minimum of five (5) stacking spaces per drive-thru lane shall be required.
- C. Exterior lighting, including illuminated signage, shall be so shaded, shielded or directed that the light intensity or brightness shall not create a nuisance.
- D. A solid fence or wall four (4) to six (6) feet in height shall be constructed where any off-street parking area or drive-through is located, adjacent to a dwelling unit or any residentially zoned parcel of land. An evergreen hedge maintained in good condition may be substituted for the required fence or

wall, provided however, that the evergreen hedge provides an opaque screen to prevent the glare of headlights onto adjoining properties and provided that the Planning Commission or Zoning Board of Appeals approves such.

#### **4.2 Reduction of Required Area or Space**

Unless a variance is specifically granted by the Zoning Board of Appeals, no lot, yard, court, parking area or other space shall be reduced in area or dimension so as to make the area or dimension less than the minimum required by this Code. No part of a yard, court, parking area or other space provided about or for any building or structure for the purpose of complying with the provisions of this Chapter, shall be included as part of the yard, court, parking area or other space required under this Chapter for another building or structure. Furthermore, no part of a yard, court, parking area or other space provided which is already less than the required minimum shall be reduced further.

#### **4.3 Clear Sight Distance at Street and Access Drive Intersections and Corner Lots**

To insure that structures or landscape materials do not constitute a driving hazard, a "clear sight triangle" will be observed at all street and access drive intersections. A clear sight triangle is the triangular area formed by a diagonal line connecting two points located on intersecting lines of a right-of-way, easement of access, or pavement edge of an access drive, each point being 20 feet from the intersecting lines. See Figure 4.3A.

##### **A. Design**

The entire area of the clear sight triangle should be designed as illustrated in Figure 4.3A to provide the driver of the vehicle entering the intersection with an unobstructed view to all points between two(2) and nine (9) feet above the roadway along the centerline. The recommended distance depends upon the design speed of the higher-order street and therefore is greater for arterial streets than for collectors.

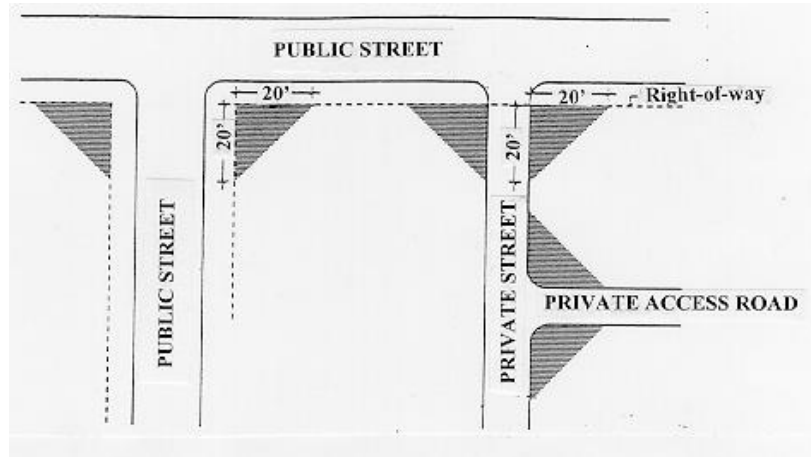
##### **B. Restrictions Within Clear Sight Triangles.**

Within the sight triangle no structure or landscape material with a mature height greater than twenty-four inches (24") shall be permitted with the exception of trees which conform to the following standards. Trees shall be permitted within the sight triangles as long as, except during early growth stages, only the tree trunk (no limbs, leaves, etc.) is visible between two(2) and nine (9) feet above the ground, or otherwise does not present a traffic visibility hazard. Restrictions shall not apply to the following:

1. Existing natural grades which, by reason of natural topography, rise twenty-four (24) or more inches above the level of the

center of the adjacent intersection;

**Figure 4.3A  
Sight Distance Diagram**



#### **4.4 Fences and Hedges**

Fences and hedges are permitted in all districts, subject to the following conditions:

##### **A. Location**

1. Fences and/or walls can be located in the front, side and rear yards subject to the height restrictions delineated in Section 4.4 B.
2. Hedges are permitted in the required front yard setback provided that the hedge height does not exceed three (3) feet. Taller hedges, not exceeding five (5) feet in height, are permitted in the required front yard, provided the hedges are set back at least ten (10) feet from the street right-of-way.
3. Any fence shall be constructed in such a fashion that the finished side of the fence is facing the adjoining property.

##### **B. Height**

1. For residential uses, no fence or wall located in the front or side yard shall exceed four (4) feet in height. Any such fence or wall shall have an open face area of not less than fifty (50) percent as measured from a perpendicular view. Fences located in the rear yard shall not exceed six (6) feet in height. Fence height shall be considered the average height of the fence above the adjacent grades. No chain-link fences shall exceed

four (4) feet in height, regardless of location, and all pointed ends along the top of any chain-link fence shall be bent to face downward.

2. For non-residential uses, fences shall not exceed six (6) feet in height and shall not be located in the front yard unless approved by the Village Planning Commission.

C. Materials (See Appendix 1 for examples of fence types)

Fences shall not contain electric charges. Barb or razor wire fences shall only be installed for security in industrial and commercial areas when authorized by the Planning Commission.

D. Site distance requirements

No fence, wall, or hedge shall violate the sight distance requirements found in Section 4.3 of this Zoning Code.

E. Minimum pool enclosure requirements

1. Enclosure Devices. Every person owning (residential) land on which a swimming pool is situated, which constitutes an obvious hazard, or which is more than twenty-four (24) inches in depth at any point or greater than 150 square feet in surface area, shall erect and maintain thereon an enclosure surrounding the pool area.
  - a. Pool enclosures, including gates, must be not less than forty-eight (48) inches tall. This measurement should be taken from up to four (4) feet beyond the enclosure.
  - b. All gates must be self-closing and self-latching with all latches placed on the inside of the enclosure high enough to render the gate inoperable by small children.
  - c. All enclosures shall have intermediate rails or ornamental closures which will not allow the passage of an object four (4) inches or more in diameter.
- (2) Exceptions to Enclosure Requirements:
  - a. Pools with walls forty-eight (48) inches or higher above grade require no enclosure. Grade must prevail for at least four (4) feet beyond the pool wall.
  - b. Above ground pools with walls forty-eight (48) inches tall or higher and with decks and removable ladders as the sole means of access need no enclosure, if the ladder is removed to render the pool inaccessible to small children when not in use.



- c. Pools with fencing attached to the top of the wall making the total height over forty-eight (48) inches high require no further enclosure.

(3) Pool Covers. Manufactured, mechanically operated or manually closed horizontal pool covers may be installed without a building permit, but such covers are not considered as a substitute or replacement for the enclosure required above.

(4) Inspections Required. Pools require the following three (3) inspections. The applicant is legally responsible to call for all inspections.

- a. Soil inspections (after excavation is complete);
- b. Electrical inspection (after electric work is complete, but not covered); and
- c. Final inspection (after the pool, enclosure, and electric are complete).

#### **4.5 Satellite Dishes**

Satellite dishes are permitted as accessory uses, subject to the following conditions:

**A. Size and height**

- 1. The maximum diameter of any satellite dish in Districts C and D is 1'-6". The dish shall be building or ground mounted and shall have a maximum height of 5'-0".
- 2. The maximum diameter of any satellite dish in all other Districts is 3'-6". The dish shall be building or ground mounted and shall have a maximum height of 8'-0".

**B. Advertising**

The satellite dish apparatus shall bear no advertising, lettering, picture or visual image.

**C. Locations and Setbacks**

Satellite dishes are prohibited from any front yard. They are permitted in side rear yards only. Rear and side yard setback is 15'. Satellite dishes may be mounted on the façade or roof of any building.

**D. Number Permitted**

In Districts C and D, one satellite dish per dwelling unit is permitted.

In all other districts, one satellite dish per principle building is permitted.

#### **4.6 Home Occupations**

Customary home occupations may be permitted by conditional use permit from the Zoning Board of Appeals. Home occupations shall be subject to the following conditions in addition to use regulations in various districts:

- A. No person other than members of the family residing on the premises shall be engaged in such home occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- C. There shall not be any change in, or alteration, construction, or reconstruction of the external appearance of the building or premises, or any other visible exterior change to the home occupation, except for an inconspicuous name plate that is consistent with the pre-existing color, form, and design of the residence. For a home occupation, the name plate may include the professional initials of the resident (ie. A.I.A, C.P.A., M.R.A., Ph.D., etc.)
- D. There shall not be regular selling of goods or services and/or other activities which result in the number of automobiles or trucks attracted to or entering the premises being greater than that which is normally associated with residential uses, including normal fluctuations in the level of residential activity. Such home occupation may increase parking by no more than one (1) vehicle at a time.
- E. There shall be no outside storage of any kind related to the home occupational use and only commodities made on the premises may be sold on the premises. Any activity, material, goods, or equipment indicative of the proposed home occupational use shall be carried on, utilized or stored within the dwelling unit and shall not be visible from any public way or adjacent property.
- F. No expansion of existing off-street parking shall be permitted. Furthermore, no additional parking burden, due to the home occupational use, shall be created.
- G. No home occupation shall create a nuisance. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises.

No equipment, process, or storage associated with a home occupation shall create any fire or explosive hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.

- H. The business activity shall not cause an increase in the use of any one or more public utilities (water, sewer, electric, sanitation, etc.) resulting in a combined utility use by the residence and the home occupation which exceeds the average use for residences in the neighborhood of the proposed use.
- I. The residential character of the neighborhood shall not be adversely affected by any home occupations.

#### **4.7 Cellular or Wireless Communication Systems**

Cellular or wireless communication systems shall be regulated as follows:

##### **A. Intent**

In recognition of the quasi-public nature of cellular and/or wireless communication systems, it is the purpose of these regulations as set out here in this Section, and known as “Cellular or Wireless Communications Systems” to:

1. Accommodate the need for cellular or wireless communication towers while regulating their location and number in the Village;
2. Minimize adverse visual effects of communication towers and support structures through proper siting, design and screening;
3. Avoid potential damage to adjacent properties from communication towers and support structure failure; and
4. Encourage the joint use of any new and existing communication towers and support structures to reduce the number of such structures needed in the future.

##### **B. Use Regulations**

The following use regulations shall apply to cellular or wireless communication antennas and towers:

1. A cellular or wireless communications antenna that is mounted to an existing communications tower (whether said tower is for cellular purposes or not), smoke stack, water tower or other tall structure exceeding fifty (50) feet, shall be permitted as of right in all zoning

districts. Cellular or wireless communications antenna may also be located on the top of buildings which are no less than fifty (50) feet in height.

Any cellular or wireless communications antenna that is mounted to an existing structure as indicated above shall be painted a color which matches, or is compatible with, the structure on which it is located.

2. A cellular or wireless communications antenna that is not mounted on an existing structure or is more than fifteen (15) feet higher than the structure on which it is mounted, is permitted in all zoning districts, with the exception of any single household or multi-household zoning district, as a conditional use.
  3. All other uses accessory to the cellular or wireless communications antenna and towers including, but not limited to business offices, maintenance depots, and materials and vehicle storage, are prohibited from the site unless otherwise permitted in the zoning district in which the cellular or wireless communications antenna and/or tower is located.
  4. Cellular or wireless communications sites shall not be located in any residential zoning district nor shall they be located any closer to any residential zoning district as follows:
    - a. Cellular or wireless communication towers less than 100 feet in height shall be located no closer than 500 feet to any residential zoning district.
    - b. Cellular or wireless communication towers less than 150 feet in height shall be located no closer than 750 feet to any residential zoning district.
    - c. Cellular or wireless communication towers 150 feet in height and greater shall be located no closer than 1000 feet to any residential zoning district.
- C. Standards of Approval for Conditionally Permitted Cellular or Wireless Communications Antennas and Towers

The following standards shall apply to all conditionally permitted cellular or wireless communications antennas and towers:

1. The cellular or wireless communications company shall be required to demonstrate, using the latest technological evidence, that the antenna or

tower must be placed where it is proposed in order to satisfy its necessary function in the company's grid system.

2. If the cellular or wireless communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby tall structures within a one (1) mile radius of the site proposed, asked for permission to install the cellular or wireless communications antenna on those structures, and was denied for reasons other than economic ones. "Tall structures" shall include, but not be limited to: smoke stacks, water towers, buildings over fifty (50) feet in height, antenna support structures of other cellular or wireless communication companies, other communication towers and roadway lighting poles.

The Village may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.

#### D. Standards of Approval of All Cellular or Wireless Communications Antennas and Towers

##### 1. Antenna/Tower Height

The applicant shall demonstrate that the antenna/tower is the minimum height required to function satisfactorily. No antenna that is taller than the minimum height shall be approved.

##### 2. Setbacks from the Base of the Tower

If a new cellular or wireless communications tower is to be constructed, the minimum distance between the base of the tower or any guy wire anchors and the property line shall be the greater of the following:

- a. Forty (40) percent of the tower height;
- b. The minimum setback in the underlying zoning district; or
- c. Fifty (50) feet.

##### 3. Cellular or Wireless Communications Tower Safety

The applicant shall demonstrate that the proposed cellular or wireless communications tower and its' antenna are safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or

other debris, or radio frequency interference. Furthermore, all cellular or wireless communications towers shall be fitted with anti-climbing devices as approved by the manufacturer.

#### 4. Fencing

A fence shall be required around the cellular or wireless communications tower and its' support structure(s), unless the antenna is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height and shall be erected to prevent access to non-authorized personnel.

#### 5. Landscaping

The following landscaping shall be required to screen as much of the support structures as possible, the fence surrounding the cellular or wireless communications tower, support structure(s) and any other ground level features and, in general, soften the appearance of the cellular communications site. The Village may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure, and other equipment is housed inside of an existing structure, landscaping shall not be required.

Any freestanding cellular or wireless communications tower shall incorporate landscaping which includes trees, shrubs and other landscaping vegetation that is subject to review and is acceptable to the Planning Commission. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

#### 6. Limiting the Number of Cellular or Wireless Communications Towers

In order to reduce the number of antenna support structures needed in the Village in the future, the proposed cellular or wireless communications tower shall be required to accommodate other users, including other cellular communications companies, and local police, fire and ambulance departments. No new cellular or wireless communication tower shall be located any closer than 1500 feet from an existing tower unless technologically required or visually or aesthetically preferable.

#### 7. Licensing

The cellular or wireless communications company must demonstrate to the Village that it is licensed by the Federal Communications Commission (FCC).

## 8. Required Parking

If the cellular or wireless communications site is fully automated, adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Zoning Code.

## 9. Appearance

Cellular or wireless communications towers under 200 feet in height shall be painted silver or have a galvanized finish retained in order to reduce visual impact. No cellular or wireless communications towers may be artificially lighted except when required by the FAA. Furthermore, no cellular communication tower or antenna shall contain any signage containing a commercial message.

## 10. Site Plan Required

A full site plan shall be required for all proposed cellular or wireless communications sites, at a scale not less than 1 inch to 100 feet (1"=100'), indicating, as a minimum, the following:

- a. The total area of the site.
- b. The existing zoning of the property in question and of all properties within the setbacks specified in 4.7B4.
- c. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned.
- d. Existing topography with a maximum of two (2) foot contours intervals.
- e. The proposed finished grade of the development shown by contours not exceeding two (2) foot intervals.
- f. The location of all existing buildings and structures and the proposed location of the cellular or wireless communications tower and all cellular or wireless communications support structures including dimensions, heights, and where applicable, the gross floor area of the buildings.

- g. The location and dimensions of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, grades, surfacing materials, drainage plans and illumination of the facility.
- h. All existing and proposed sidewalks and open areas on the site.
- i. The location of all proposed fences, screening and walls.
- j. The location of all existing and proposed streets.
- k. All existing and proposed utilities including types and grades.
- l. The schedule of any phasing of the project.
- m. A written statement by the cellular or wireless communications company as to the visual and aesthetic impacts of the proposed cellular or wireless communications tower on all adjacent residential zoning districts.
- n. Any other information as may be required by the Planning Commission to determine the conformance with this Zoning Code.

Upon submission of a complete application for site plan review to the Building Official, the application shall be transmitted to the Planning Commission where they shall review the site plan to determine if it meets the purpose and requirements as established in this Section, of the zoning district where the proposed cellular or wireless communications site is located and of any other applicable Section of this Zoning Code.

The Planning Commission shall act upon all site plans within thirty-five (35) days after the receipt of the complete application from the Building Official. The Planning Commission may approve, disapprove or approve with modifications the site plan as submitted. Within the said thirty-five (35) day period, a majority of the members of the Planning Commission present at a meeting thereof may vote to extend the said period of time, not to exceed an additional sixty (60) days.

#### E. Maintenance

Any owner of property used as a cellular or wireless communications site shall maintain such property and all structures in good condition and free from trash, outdoor storage, weeds and other debris. Any cellular or wireless communications tower that has discontinued its service for a period of twelve (12) continuous months or more shall be removed, along with all accessory structures related thereto. Discontinued shall mean that the structure has not



been properly maintained, has been abandoned, become obsolete, unused or has ceased the daily activities or operations which had occurred.

#### **4.8 Performance Standards to Regulate Potential Hazards and Nuisances**

The following minimum standards shall apply to all Districts and uses:

##### **A. Fire and Explosion Hazards**

All activities including storage, involving flammable or explosive materials, shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration, Building and Fire Codes shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.

##### **B. Air Pollution**

No emission of air pollutants shall be permitted which violate the Clean Air Act Amendment, as amended from time to time, as enforced by the Ohio Environmental Protection Agency.

##### **C. Glare, Heat and Exterior Light**

Any operation producing intense light or heat, such as high temperature processes like combustion, welding or otherwise, shall be performed within an enclosed building and shall not be visible beyond any lot line bounding the property whereon the use is conducted. No exterior lighting shall be positioned so as to extend light or glare onto adjacent properties.

##### **D. Dust and Erosion**

Dust or silt shall be minimized through landscaping, paving or other adequate means in a manner as to prevent their transfer by wind or water to points off of the lot in objectionable quantities.

##### **E. Liquid or Solid Wastes**

No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.

##### **F. Vibrations and Noise**

No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernable without instruments at or beyond the property lines of the subject premises. Noise standards of the Ohio Environmental Protection Agency shall be adhered to.

#### G. Odors

No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point or beyond the lot line of the property on which the use is located. These odors shall not create a nuisance. The applicable standards of the Ohio Environmental Protection Agency shall be adhered to.

#### **4.9 Regulations for Automotive Service Stations and/or Repair Garages and Gasoline Sales Establishments**

The following requirements shall apply to automotive service stations and/or repair garages and gasoline sales establishments:

- A. There shall be a minimum of two (2) separate driveways providing ingress and egress from the property, located not closer than fifty (50) feet from one another, twenty-five (25) from any adjacent residentially zoned district. The Village may require the submission of a traffic study prepared by a qualified traffic engineer to evaluate the proposed driveway locations and if necessary, recommend alternate locations.
- B. The entire lot area, exclusive of the area covered by the building, shall be paved and/or landscaped. A minimum four (4) inch high curb shall separate all paved areas from all landscaped areas.
- C. In the case of an automotive service station/repair garage or gasoline sales establishment, the light from exterior lighting shall be so shaded, shielded or directed that the light intensity or brightness shall not cause a nuisance to any surrounding residential area.
- D. A solid fence, wall or evergreen hedge, four (4) to six (6) feet in height shall be constructed or planted, and maintained in good condition wherever such use abuts a residentially zoned district.
- F. Motor vehicle fuel pumps, compressed air connections and similar equipment shall be erected no closer than fifteen (15) feet to any right-of-way line.
- G. Canopies erected on an automotive filling station site shall be erected no closer than fifteen (15) feet to any right-of-way line.
- H. Other uses permitted in a district which automotive service stations are permitted may be combined on the same premises with automotive filling station uses provided that, before the commencement of such combined

uses, a development plan shall be submitted to the Planning Commission for its review and approval. In determining the approval, approval with modifications or disapproval of such development plan, the Planning Commission shall consider the following factors, and its approval or disapproval shall be based on the following factors alone:

1. Access, ingress, egress and traffic circulation;
  2. Off-street parking and loading spaces as required by this Zoning Code;
  3. Adequate and safe separation of uses; and
  4. Compliance with the requirements of this Chapter.
- H. No vehicles shall be parked within the required front yard of any automotive service station except for those vehicles actually being serviced at the pump island. No vehicle not owned by an employee or owner of such automotive filling station shall be permitted to stand out of doors on such premises for more than 72 hours.

#### **4.10 Outdoor Bulk Storage or Display**

The following regulations shall apply to outdoor bulk storage or displays:

- A. The outdoor storage or display of bulk goods including seasonal items such as firewood and mulch shall be controlled by the following regulations:
1. The outdoor storage or display of merchandise, inventory or materials shall not interfere with parking or the safe and unobstructed use of vehicular or pedestrian access ways or walkways. Furthermore, no outdoor storage or display area may occupy any required parking space.
  2. The outdoor storage or display of merchandise, inventory or materials shall not be located in any required yard area within the lot.
  3. The outdoor storage or display of merchandise, inventory or materials shall not include the use of banners, pennants or strings of pennants.
- B. Outdoor storage or display locations shall be approved by the Village upon the application of the record owner of the property.

#### **4.11 Adult Entertainment Facility**

An Adult Entertainment Facility is a principally permitted use within the I Redevelopment and Reinvestment District.

- A. Minimum location requirements

No Adult Entertainment Facility shall be established within five hundred (500) feet of:

1. Any residential dwelling unit.
2. Any public, private, governmental or commercial library, school, teaching facility, park, recreational facility, religious place of worship, child day care facility, day care facility, playground or swimming pool; or
3. Any other Adult Entertainment Facility

**B. Prohibited public display**

No advertisements, displays or other promotional materials shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public areas.

**C. Public view to be prevented**

All building openings, entries, windows, etc. for Adult Entertainment Facilities shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public areas, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from any public or semi-public areas.

**D. External audio and visual impact**

No screens, loudspeakers or sound equipment shall be used for motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.

**E. Interior design**

The interior of any adult book store shall be lighted and constructed in such a manner that every portion thereof (except restroom facilities) is readily visible to the clerk or supervisory personnel from the facilities' counter or other regular work station.

## **4.12 Regulations for Outdoor Lighting**

The following restrictions shall apply to any outdoor lighting located in any district on parcels, including parking areas and areas where on-building lighting or other security lighting is utilized.

**A. Height**

All outdoor lighting shall be designed, located, and mounted at heights no

greater than sixteen feet (16') above grade for non-cutoff lights and twenty-four feet (24') above grade for cutoff lights. Cutoff and non-cutoff lights are illustrated below:

**B. Illumination**

All outdoor lighting shall be designed and located with a maximum illumination of 0.5 footcandles at the property line.

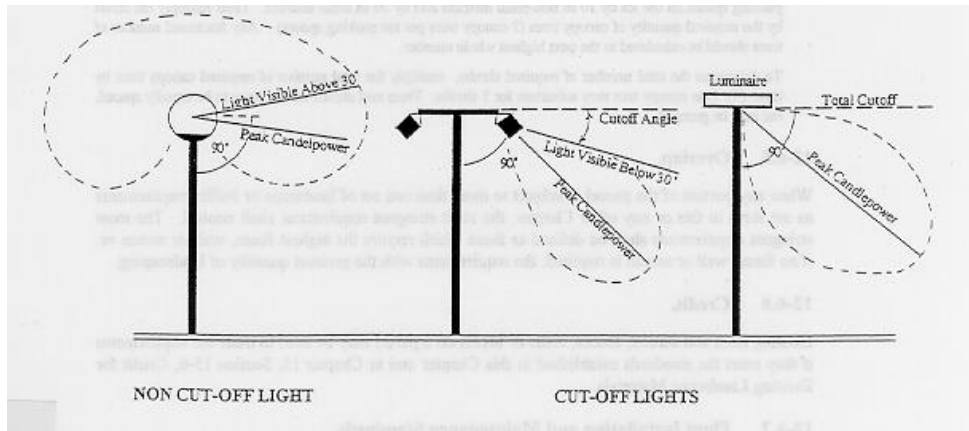
**C. Shielding**

All outdoor lighting for non-residential and residential uses shall be located, screened, or shielded so that adjacent lots located in residential district are not directly illuminated.

**D. Color and Glare**

No outdoor lighting shall be of such an intensity or color distortion as to cause glare or to impair the vision of drivers or pedestrians.

**NON CUT-OFF LIGHT & CUT-OFF LIGHT**



**E. Location**

Outdoor lighting need not comply with the yard requirements of this Resolution, except that no such light shall obstruct sight triangles as defined in Section 4.3.



## **CHAPTER 5 LOTS OF RECORD**

### **5.0 Dwelling on Any Lot of Record**

In any district where dwellings are permitted, a single family detached dwelling may be erected on any lot of official record at the effective date of this Code, irrespective of its area or widths, provided the applicable yard and other open space requirements satisfying the following requirements, that on lots of record which do not meet the minimum yard requirements for the corresponding district as of the effective date of this code, the minimum yard setback shall be determined by the proportional application of the requirements specified in that corresponding district. However, those modified setbacks shall not be less than 50% of the minimum setback required in that district except as otherwise provided by this Code.

### **5.1 Non-Conforming Dwelling Units**

Any legally permitted dwelling unit existing within a non-residential district on the effective date of the adoption of this Code may continue as a dwelling use provided that the dwelling conforms with the regulations set forth in Chapter 8, Non-Conforming Uses.





## **CHAPTER 6 HEIGHT MODIFICATIONS**

### **6.0 Height Limitations**

The height limitations stipulated elsewhere in this Chapter may be modified pursuant to the following provisions in Sections 6.1 through 6.3, as per the decision of Planning Commission following a site plan review.

### **6.1 Architectural Features**

Church spires, domes, flagpoles, windmills, chimneys, cooling towers, elevator, fire towers, belfries, monuments, stacks, derricks, conveyors, stage towers or scenery lofts, tanks, water towers, silos, or necessary mechanical appurtenances, may be erected to any lawful and safe height. Cellular, or wireless communications systems are not subject to this exception and shall be regulated according to Section 4.7, Cellular or Wireless Communication Systems, of this Code.

- A. No more than one antenna per dwelling unit shall be permitted in Districts C and D. No more than one antenna per principle building shall be permitted in all other Districts.

### **6.2 Places of Public Assembly**

Public, semi-public or public service buildings, (except as otherwise provided), institutions, or schools, when permitted in a District, may be erected to a height not exceeding sixty (60) feet, and churches and similar places of worship may be erected to a height not exceeding seventy-five (75) feet if the building is set back from each required rear yard line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the District in which the building or structure is built.

### **6.3 Single Family Dwellings**

Single family dwellings may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the District in which they are located by not less than ten (10) feet, in any event, they shall not exceed three (3) stories or forty-five (45) feet in height.



## **CHAPTER 7 FRONTAGE AND YARD MODIFICATIONS AND PROJECTIONS**

### **7.1 Building on Through Lots**

Buildings on through lots shall conform to the front yard requirements for each street. In case of reversed frontage, an accessory building shall not extend beyond the front yard setback of the rear street.

### **7.2 Average Depth of Front Yards**

In any residential district, the front yard depth shall not be less than the average depth of the existing front yards on two lots immediately adjoining. In the case of a corner lot, each front yard depth shall not be less than front yard depth of the one lot immediately adjoining.

### **7.3 Rear and Side Yard Depth Computation**

In computing the depths of a rear yard or the width of a side yard, where the rear or side yards abuts an alley, one-half of the width of the alley may be included as a portion of the required rear or side yard, as the case may be.

### **7.4 Required Yard Requirements**

The following requirements shall apply to the required yards in districts:

1. Accessory buildings which are not a part of the main building may be built in a required rear yard provided that they are not less than three (3) feet from the rear and side lot lines. An accessory building which is not part of the main building shall not occupy more than thirty (30) percent of the required rear yard and shall be located not less than sixty (60) feet away from the front lot line, except as provided elsewhere by this Code (i.e. gasoline sales).
2. Every part of a required yard setback shall be open to the sky, unobstructed, except for accessory buildings in the rear yard, and except for the ordinary projections of skylights, sills, beltcourses, cornices and ornamental features which shall not project more than twelve (12) inches into the required setback. This requirement shall not prevent the construction of as regulated in Section 4.4, Fences and Hedges.

#### **7.4.1 Required yard Requirements**

Accessory buildings which are not a part of the main building may be built in a required rear yard provided that they are not less than three (3) feet from the rear and side lot lines. An accessory building which is not part of the main building shall not occupy more than thirty (30) percent of the required rear yard and shall be located not less than sixty (60) feet away from the designated front yard line, except as provided elsewhere by this Code (i.e., gasoline sales).

### **7.5 Corner Lot Yard Requirements**

A corner lot shall be considered to contain two front yards. Front yard setbacks shall apply from both street rights-of-way.

## **7.6 Projection of Architectural Features**

Terraces, open porches, decks, platforms, ornamental features and fire escapes may project into a required yard, provided these projections be distant not less than three (3) feet into the required side yard. For the purpose of this section, terraces, open porches, decks, platforms, ornamental features and fire escapes shall be defined as projections that are not more than 30 inches above the finished grade.

## **CHAPTER 8 NON-CONFORMING USES**

### **8.0 Existing Non-conforming Uses Continuation**

Except as otherwise specified in these regulations, any use, lot, building or structure that exists as of the enactment date of these regulations may be continued even though such use, lot, building or structure may not conform to the provisions of the Zoning District in which it is located. The provisions for non-conforming uses shall apply.

Nothing contained in these regulations shall require any change in the plans, construction, size or designated use of a building, for which a valid permit has been issued or lawful approval given before the effective date of these regulations; provided, however, that construction under such permit or approval shall have been started within six (6) months and the ground floor framework including structural parts of the second floor shall have been completed within one (1) year and the entire building completed within two (2) years after the effective date of these regulations.

### **8.1 Discontinuance of Use**

In the event that a non-conforming use of any dwelling, building or structure and/or of any land or premises is voluntarily discontinued or abandoned for six (6) months or more, any future use shall be a lawful conforming use.

### **8.2 Improvement to an Existing Non-conforming Use**

Unless specifically excepted elsewhere in these regulations, no existing building or premises devoted to a non-conforming use shall be enlarged, extended, reconstructed, altered or changed in use, unless the use is changed to a permitted use or a conditionally permitted use under this Zoning Code.

### **8.3 Exceptions to the Non-conforming Regulations**

Exceptions to the non-conforming regulations may be permitted by the Zoning Board of Appeals in the following cases:

- A. A non-conforming residential use may be substantially improved, repaired or rebuilt.
- B. Nothing in these regulations shall be interpreted to prevent normal maintenance, operation or repair of a premise, or the alteration, repair, or improvement of a premises to comply with an order to improve the property to minimum building code standards.

- C. An existing facility or operation may be permitted to replace existing structures or machinery in order to modernize such facility. No such replacement shall result in the expansion by more than ten (10) percent of the floor area of the structure or facility existing at the time, or more than ten (10) percent of the land coverage on the site existing at the time of enactment of these regulations. Further, such replacement for modernization purposes must be reviewed and approved by the Planning Commission to be in compliance with these provisions. If such use is located in any Architectural Review Overlay District, the Architectural Review Officer must first review the development plan and submit written recommendations to the Planning Commission prior to consideration. The replacement of an existing structure for modernization or any associated expansion shall require that the property comply with the regulations of this Zoning Code, including but not limited to parking regulations, setback requirements, landscaping requirements, buffer requirements and sign regulations.

#### **8.4 Replacing Damaged Non-conforming Structures**

When a non-conforming, non-residential building or structure is damaged or destroyed to the extent of more than sixty percent (60%) of its replacement value, it shall not be restored.

**CHAPTER 9**  
**C RESIDENCE – VILLAGE RESIDENTIAL DISTRICT**

**9.0 Purpose**

It is the purpose of the C Residence – Village Residential District to establish and maintain high quality areas for single-family detached dwellings on medium to small sized lots consistent with the existing housing in the Village.

**9.1 Principally Permitted Uses**

Principally permitted uses shall be as follows:

- A. Educational institutions
- B. Parks and open space
- C. Religious places of worship
- D. Residential, single family

**9.2 Permitted Accessory Uses**

Permitted accessory uses are as follows:

- A. Satellite dishes; see Section 4.5 regarding regulations
- B. Signs; see Chapter 17 regarding regulations
- C. Any use or structure customarily accessory and incidental to any of the permitted uses within this district

**9.3 Conditionally Permitted Uses**

Conditionally permitted uses are as follows:

- A. Bed and breakfast establishments
- B. Clubs
- C. Essential services and utilities
- D. Home occupations
- E. Recreation, Commercial
- F. Recreation, Noncommercial

#### **9.4 Minimum Lot Area and Width**

The minimum lot area and width for properties in the C Residence - Village Residential District are as follows:

- A. Single family detached dwelling units shall have a minimum lot area of not less than 5,000 square feet and a width of not less than 40 feet.
- B. Other uses shall have a minimum lot area of not less than one (1) acre and a width of not less than 100 feet.

#### **9.5 Minimum Front Yard Setback**

The minimum front yard setback for properties in the C Residence - Village Residential District shall be as follows:

- A. Single-family detached dwellings shall have minimum front yard setback of not less than 30 feet.
- B. All other uses shall have a minimum front yard setback of not less than 35 feet.

#### **9.6 Minimum Side Yard Setback**

The minimum side yard setback for properties in the C Residence- Village Residential District shall be as follows:

- A. Single-family detached dwellings shall have a minimum side yard setback of not less than 5 feet each side.
- B. All other uses shall have a minimum side yard setback of not less than 10 feet each side.

#### **9.7 Minimum Rear Yard Setback**

The minimum rear yard setback for properties in the C Residence- Village Residential District shall be as follows:

- A. Single-family detached dwellings shall have a minimum rear yard setback of not less than 30 feet.
- B. All other uses shall have a minimum rear yard setback of not less than 35 feet.



## **9.8 Minimum and Maximum Height Regulations**

The minimum and maximum height regulations for properties in the C Residence- Village Residential District are as follows:

- A. No principal structure shall be less than 10 feet in height or exceed 35 feet in height.
- B. No accessory structure shall exceed 15 feet in height.

## **9.9 Additional Requirements**

In addition to the standards established in this Chapter, uses within the C Residence Village Residential District must conform to the standards established in Chapter 4 Supplemental District Regulations, Chapter 15 Bufferyards and Landscaping and Chapter 16 Off-Street Parking and Loading.



**CHAPTER 10**  
**D RESIDENCE – TRANSITIONAL VILLAGE**  
**RESIDENTIAL DISTRICT-**

**10.0 Purpose**

It is the purpose of the D Residence – Transitional Village Residential District to encourage areas of high quality, higher density, two family and multi-family residential development.

**10.1 Principally Permitted Uses**

Principally permitted uses are as follows:

- A. Bed and breakfast
- B. Parks and open space
- C. Religious places of worship
- D. Residential, Multiple Family
- E. Residential, Two Family

**10.2 Permitted Accessory Uses**

Permitted accessory uses are as follows:

- A. Satellite dishes; see Section 4.5 regarding regulations
- B. Signs; see Chapter 17 regarding regulations
- C. Any use or structure customarily accessory and incidental to any of the permitted uses within this district

**10.3 Conditionally Permitted Uses**

Conditionally permitted uses are as follows:

- A. Essential services and utilities
- B. Home occupations
- C. Recreation, Commercial
- D. Recreation, Noncommercial

#### **10.4 Minimum and Maximum Density**

The maximum density for this district shall not exceed twenty (20) dwelling units per acre. The minimum density for this district shall be no less than (10) dwelling units per acre.

#### **10.5 Minimum Lot Area and Width**

The minimum lot area and width for properties in the D Residence- Transitional Village Residential District are as follows:

- A. Multi-family dwelling units shall have a minimum lot area of 2,000 square feet and a width of not less than 24 feet
- B. Two family dwellings of two (2) stories or greater shall have a minimum lot area of not less than 4,000 square feet and a width of not less than 48 feet.

#### **10.6 Minimum Front Yard Setback**

- A. Properties in the D Residence- Transitional Village Residential District shall have a front yard setback of not less than 15 feet.

#### **10.7 Minimum Side Yard Setback**

- A. Two family dwellings in the D Residence- Transitional Village Residential District shall have a side yard setback of not less than 10 feet.
- B. Multi-family dwellings, built in the form of row houses in the D Residence – Transitional Village Residential District, shall have a side yard setback of 0 feet between individual units and 10 feet between adjacent lots.

#### **10.8 Minimum Rear Yard Setback**

- A. Properties in the D Residence – Transitional Village Residential District shall have a minimum rear yard setback of 20 feet.

#### **10.9 Minimum and Maximum Height Regulations**

The minimum and maximum height regulations for properties in the D Transitional Village Residential District shall be as follows:

- A. Principal structures shall have a minimum height of 25 feet and a maximum height of 40 feet.
- B. Accessory structure shall have a minimum height of 15 feet and a maximum height of 25 feet.

## **10.10 Additional Requirements**

In addition to the standards established in this Chapter, uses within the D Transitional Village Residential District must conform to the standards established in Chapter 4 Supplemental District Regulations, Chapter 15, Bufferyards and Landscaping and Chapter 16, Off-Street Parking and Loading.

Site plan review and conditional use approval by the Planning Commission is required for all uses within the D Transitional Village Residential District. This review shall be conducted in accordance with the standards and procedures outlined in Chapter 21.



**CHAPTER 11**  
**E BUSINESS MIXED USE DISTRICT**

**11.0 Purpose**

It is the purpose of the E Business Mixed Use District to provide for a full range of business, office, professional and commercial uses and is intended for those areas located along primary roadways and at major intersections where they may take advantage of heavy traffic flow.

**11.1 Principally Permitted Uses**

Principally permitted uses are as follows:

- A. Bed and Breakfast
- B. Business services.
- C. Clinics.
- D. Clubs.
- E. Eating and Drinking Places
- F. Educational institutions
- G. Entertainment Establishments
- H. Funeral homes
- I. Garden Centers, Greenhouses and Nurseries
- J. Motels and Hotels
- K. Parks and Open Space
- L. Personal Services
- M. Printing and Publishing
- N. Professional Offices
- O. Recreation, commercial
- P. Recreation, noncommercial.

- Q. Religious places of worship.
- R. Residential, Multiple Family
- S. Retail sales and services shops

### **11.2 Permitted Accessory Uses**

Permitted accessory uses are as follows:

- A. Any use or structure customarily accessory and incidental to any of the permitted uses within this district.
- B. Satellite dishes; see section 4.5 regarding regulations.

### **11.3 Conditionally Permitted Uses**

Conditionally permitted uses are as follows:

- A. Essential services and utilities. .
- B. Home Occupations
- C. Hospitals.
- D. Day Care.

### **11.4 Minimum Lot Area and Width**

The minimum lot area for properties in the E Business Mixed Use District shall not be less than 6,000 square feet and a width of not less than 40 feet.

### **11.5 Minimum and Maximum Front Yard Setback**

The front yard setback for properties in the E Business Mixed Use District shall be a minimum of 7 feet and a maximum of 15 feet.

### **11.6 Minimum Side Yard Setback**

There shall be no minimum side yard setback in the E Business Mixed Use District except when property abuts any Residence District; then the minimum side yard setback shall be not less than 10 feet each side.

### **11.7 Minimum Rear Yard Setback**

The minimum rear yard setback for properties in the E Business Mixed Use District shall be not less than 10 feet.



## **11.8 Minimum and Maximum Height Regulations**

The minimum and maximum height regulations for properties in the E Business Mixed Use District shall be as follows:

- A. Principal structure shall have a minimum height of 25 feet and a maximum height of 60 feet.
- B. Accessory structures shall have a minimum height of 25 feet and a maximum height of 60 feet.

## **11.9 Additional Requirements**

In addition to the standards established in this Chapter, uses within the E Business Mixed Use District Retail Business District must conform to the standards established in Chapter 4 Supplemental District Regulations, Chapter 15, Bufferyards and Landscaping and Chapter 16, Off-Street Parking and Loading.

Site plan review and, as applicable, conditional use approval by the Planning Commission is required for all uses within the E Business Mixed Use District meeting one or more of the following criteria: new construction; change in use to a conditionally permitted use; or the construction or alteration of a building or structure within a business property that expands the total gross square footage of the existing building or structure by at least forty (40) percent, adds twenty-five (25) or more parking spaces on the business property, substantially alters the existing traffic pattern or truck access on the business property, or substantially increases the occupancy of the business property. Site plan review shall be conducted in accordance with the standards and procedures set forth in Chapter 21.



**CHAPTER 12**  
**F BUSINESS MIXED DENSITY RESIDENTIAL - OFFICE**

**12.0 Purpose**

It is the purpose of the F Business Mixed Density Residential – Office District to provide for a full range of multifamily residential dwellings, business, office, professional and commercial uses and is intended for those areas located adjacent to the Business mixed use district.

**12.1 Principally Permitted Uses**

Principally permitted uses are as follows:

- A. Bed and Breakfast
- B. Business services
- C. Clinics.
- D. Clubs
- E. Eating and Drinking Places
- F. Educational Institutions
- G. Entertainment Establishments
- H. Funeral Homes
- I. Garden Centers, Greenhouses and Nurseries.
- J. Motels and Hotels
- K. Parks and Open Space
- L. Personal Services
- M. Printing and Publishing
- N. Professional Offices
- O. Recreation, commercial
- P. Recreation, noncommercial

- Q. Religious places of worship
- R. Residential, multiple family
- S. Residential, two family
- T. Retail sales and service shops.

## **12.2 Permitted Accessory Uses**

Permitted accessory uses are as follows:

- A. Any use or structure customarily accessory and incidental to any of the permitted uses within this district.
- B. Satellite dishes; see section 4.5 regarding regulations.

## **12.3 Conditionally Permitted Uses**

Conditionally permitted uses are as follows:

- A. Assisted Living
- B. Essential services and utilities.
- C. A drive through window in association with a permitted or conditional use.
- D. Home occupations.
- E. Nursing Homes
- F. Animal Hospitals/Veterinary Clinics.
- G. Cemeteries.
- H. Day Care.

## **12.4 Minimum Lot Area and Width**

The minimum lot area for properties in the F Business Mixed Density Residential – Office District not be less than 2,000 square feet and a width of not less than 24 feet.

## **12.5 Minimum and Maximum Front Yard Setback**

The front yard setback for properties in the F Business Mixed Density Residential – Office District shall be a minimum of 7 feet and a maximum of 15 feet.

## **12.6 Minimum Side Yard Setback**

There shall be no minimum side yard setback in the F Business Mixed Density Residential – Office District except when property abuts any Residence District; then the minimum side yard setback shall be not less than 10 feet each side.

## **12.7 Minimum Rear Yard Setback**

The minimum rear yard setback for properties in the F Business Mixed Density Residential – Office District shall be not less than 10 feet.

## **12.8 Minimum and Maximum Height Regulations**

The minimum and maximum height regulations for properties in the F Business Mixed Density Residential – Office District shall be as follows:

- A. Principal structure shall have a minimum height of 25 feet and a maximum height of 60 feet.
- B. Accessory structures shall have a minimum height of 25 feet and a maximum height of 60 feet.

## **12.9 Additional Requirements**

In addition to the standards established in this Chapter, uses within the F Business Mixed Density Residential – Office District must conform to the standards established in Chapter 4 Supplemental District Regulations, Chapter 15, Bufferyards and Landscaping and Chapter 16, Off-Street Parking and Loading.

Site plan review and, as applicable, conditional use approval by the Planning Commission is required for all uses within the F Business Mixed Density Residential – Office District meeting one or more of the following criteria: new construction; change in use to a conditionally permitted use; or the construction or alteration of a building or structure within a business property that expands the total gross square footage of the existing building or structure by at least forty (40) percent, adds twenty-five (25) or more parking spaces on the business property, substantially alters the existing traffic pattern or truck access on the business property, or substantially increases the occupancy of the business property. Site plan review shall be conducted in accordance with the standards and procedures set forth in Chapter 21.



## **CHAPTER 13 G REDEVELOPMENT AND REINVESTMENT DISTRICT**

### **13.0 Purpose**

It is the purpose of the G Redevelopment and Reinvestment District to provide for areas along major thoroughfares and well suited areas for uses which generate large amounts of automobile and truck traffic and which should be separated from residential developments.

### **13.1 Principally Permitted Uses**

Principally permitted uses are as follows:

- A. Automotive services, sales, gasoline sales
- B. Building and related trades
- C. Business services
- D. Clubs
- E. Eating and Drinking Places
- F. Educational institutions
- G. Entertainment establishment
- H. Essential services and utilities
- I. Funeral services
- J. Garden Center, Greenhouses, and Nurseries
- K. Manufacturing
- L. Motels and Hotels
- M. Parks and Open Spaces
- N. Printing and publishing
- O. Professional Offices
- P. Recreation, commercial

- Q. Recreation, noncommercial
- R. Religious places of worship
- S. Research and development
- T. Warehouse and wholesale establishment
- U. Hospitals

### **13.2 Permitted Accessory Uses**

Permitted accessory uses are as follows:

- A. Satellite dishes; see Section 4.5 regarding regulations.
- B. Signs; see Chapter 17 regarding regulations.
- C. Outdoor storage; provided it is subject to review according to the Section 4.10, Outdoor Storage and Display.
- D. Any use or structure customarily accessory and incidental to any of the permitted uses within this district.

### **13.3 Conditionally Permitted Uses**

Conditionally permitted uses are as follows:

- A. Assisted Living
- B. Automotive wash
- C. Nursing Homes
- D. Personal services
- E. Retail Sales and Service Shops
- F. Animal Hospitals/Veterinary Clinics
- G. Clinics
- H. Kennels



#### **13.4 Minimum Lot Area and Width**

The minimum lot area for properties in the G Redevelopment and Reinvestment District shall be 10,000 square feet and a minimum lot width of not less than 50 feet.

#### **13.5 Minimum Front Yard Setback**

The minimum front yard setback for properties in the G Redevelopment and Reinvestment District shall be 40 feet.

#### **13.6 Minimum Side Yard Setback**

The minimum side yard setback for properties in the G Redevelopment and Reinvestment District shall be 25 feet each side. If adjacent to residential uses, the setback shall be 40 feet.

#### **13.7 Minimum Rear Yard Setback**

The minimum rear yard setback for properties in the G Redevelopment and Reinvestment District shall be 40 feet. If adjacent to residential uses, the setback shall be 60 feet.

#### **13.8 Minimum and Maximum Height Regulations**

The minimum and maximum height regulations for properties in the G Redevelopment and Reinvestment District shall be as follows:

- A. Principal structures shall have a minimum height of 25 feet and a maximum height of 60 feet.
- B. Accessory structures shall have a minimum height of 10 feet and a maximum height of 25 feet.

#### **13.9 Potential Hazards and Nuisances**

All uses in the G Redevelopment and Reinvestment District must comply with Section 4.8 of this Code.

#### **13.10 Additional Requirements**

In addition to the standards established in this Chapter, uses within the G Redevelopment and Reinvestment District must conform to the standards established in Chapter 4 Supplemental District Regulations, Chapter 15, Bufferyards and Landscaping and Chapter 16, Off-Street Parking and Loading.

Site plan review, and as applicable, conditional use approval by the Planning Commission is required for all uses within the G Redevelopment and Reinvestment District meeting one or more of the following criteria: new construction, change in use to a conditionally permitted use; or the construction or alteration of a building or structure within a business property that expands the total gross square footage of the existing building or structure by at least forty (40) percent, adds twenty five (25) or more parking spaces on the business property, substantially alters the existing traffic pattern or truck access on the business property, or substantially increases the occupancy of the business property. Site plan review shall be conducted in accordance with the standards and procedures outlined in Chapter 21.

### **13.11 Donation of Greenspace**

Greenspace adjacent to floodplains may be donated to the Village of Fairfax in exchange for consideration by the Architectural Review Officer for modifications to the requirements of sections 13.4 – 13.8 and 15.4. The extent and nature of modifications to the requirements of the foregoing sections, if any, shall be within the discretion of the Architectural Review Officer.

## **CHAPTER 14 H REINVESTMENT DISTRICT**

### **14.0 Purpose**

It is the purpose of the H Reinvestment District to provide for areas along major thoroughfares and well suited areas for uses which generate large amounts of automobile and truck traffic and which, for other reasons, should be substantially separated from residential developments.

### **14.1 Principally Permitted Uses**

Principally permitted uses are as follows:

- A. Business Offices and Professional Offices
- B. Business services
- C. Hotels/Motels
- D. Research and Development

### **14.2 Permitted Accessory Uses**

Permitted accessory uses are as follows:

- A. Satellite dishes; see Section 4.5 regarding regulations.
- B. Signs; see Chapter 17 regarding regulations.
- C. Outdoor storage; provided it is subject to review according to the Section 4.10, Outdoor Storage and Display.
- D. Any use or structure customarily accessory and incidental to any of the permitted uses within this district.

### **14.3 Conditionally Permitted Uses**

Conditionally permitted uses are as follows:

- A. Retail Sales, limited to:
  - 1. Being an integral component of a principally permitted use; or otherwise

2. Limited to five thousand (5,000) square feet gross floor area in size permitted as a freestanding use or building.

B. Recreational facilities

**14.4 Minimum Lot Area and Width**

The minimum lot area for properties in the H Reinvestment District shall be 10,000 square feet and a minimum lot width of not less than 50 feet.

**14.5 Minimum Front Yard Setback**

The minimum front yard setback for properties in the H Reinvestment District shall be 40 feet.

**14.6 Minimum Side Yard Setback**

The minimum side yard setback for properties in the H Reinvestment District shall be 25 feet each side. If adjacent to residential uses, the setback shall be 40 feet.

**14.7 Minimum Rear Yard Setback**

The minimum rear yard setback for properties in the H Reinvestment District shall be 40 feet. If adjacent to residential uses, the setback shall be 60 feet.

**14.8 Minimum and Maximum Height Regulations**

The minimum and maximum height regulations for properties in the H Reinvestment District shall be as follows:

- A. Principal structures shall have a minimum height of 25 feet and a maximum height of 60 feet.
- B. Accessory structures shall have a minimum height of 10 feet and a maximum height of 25 feet.

**14.9 Potential Hazards and Nuisances**

All uses in the H Reinvestment District must comply with Section 4.8 on this Code.

#### **14.10 Additional Requirements**

In addition to the standards established in this Chapter, uses within the H Reinvestment District must conform to the standards established in Chapter 4 Supplemental District Regulations, Chapter 15 Bufferyards and Landscaping and Chapter 16 Off-Street Parking and Loading.

Site plan review and, as applicable, conditional use approval by the Planning Commission is required for all uses within the H Reinvestment District meeting one or more of the following criteria: new construction; change in use to a conditionally permitted use; or the construction or alteration of a building or structure within a business property that expands the total gross square footage of the existing building or structure by at least forty (40) percent, adds twenty five (25) or more parking spaces on the business property, substantially alters the existing traffic pattern or truck access on the business property; or substantially increases the occupancy of the business property. Site plan review shall be conducted in accordance with the standards and procedures outlined in Chapter 21.

#### **14.11 Donation of Greenspace**

Greenspace adjacent to floodplains may be donated to the village of Fairfax in exchange for consideration by the Architectural Review Officer for modifications to the requirements of sections 14.4 – 14.8 and 15.4. The extent and nature of modifications to the requirements of the foregoing sections, if any, shall be within the discretion of the Architectural Review Officer.



**CHAPTER 14A**  
**I REDEVELOPMENT AND REINVESTMENT DISTRICT**

**14A.0 Purpose**

It is the purpose of the I Redevelopment and Reinvestment District to provide for areas along major thoroughfares and well suited areas for uses which generate large amounts of automobile and truck traffic and which should be separated from residential developments.

**14A.1 Principally Permitted Uses**

- A. Adult Entertainment Facilities
- B. Automotive services, sales, gasoline sales
- C. Building and related trades
- D. Business services
- E. Clubs
- F. Eating and Drinking Places
- G. Educational Institutions
- H. Entertainment establishment
- I. Essential services and utilities
- J. Funeral services
- K. Garden Center, Greenhouses, and Nurseries
- L. Manufacturing
- M. Motels and Hotels
- N. Parks and Open Spaces
- O. Printing and Publishing
- P. Professional Offices
- Q. Recreation, commercial
- R. Recreation, non-commercial
- S. Religious places of worship
- T. Research and development
- U. Warehouses and wholesale establishments
- V. Hospitals

**14A.2 Permitted Accessory Uses**

Permitted accessory uses are as follows:

- A. Satellite dishes; see Section 4.5 regarding regulations.
- B. Signs; see Chapter 17 regarding regulations.
- C. Outdoor storage; provided it is subject to review according to the Section 4.10, Outdoor Storage and Display.
- D. Any use or structure customarily accessory and incidental to any of the permitted uses within this district.

### **14A.3 Conditionally Permitted Uses**

Conditionally permitted uses are as follows:

- A. Assisted Living
- B. Automotive Wash
- C. Nursing Homes
- D. Personal Services
- E. Retail Sales and Service Shops
- F. Animal Hospitals/Veterinary Clinics
- G. Clinics
- H. Kennels
- I. Residential Condominiums

### **14A.4 Minimum Lot Area and Width**

The minimum lot area for properties in the I Redevelopment and Reinvestment District shall be 10,000 square feet and a minimum lot width of not less than 50 feet.

### **14A.5 Minimum Front Yard Setback**

The minimum front yard setback for properties in the I Redevelopment and Reinvestment District shall be 40 feet.

### **14A.6 Minimum Side Yard Setback**

The minimum side yard setback for properties in the I Redevelopment and Reinvestment District shall be 25 feet each side. If adjacent to residential uses, the setback shall be 40 feet.

### **14A.7 Minimum Rear Yard Setback**

The minimum rear yard setback for properties in the I Redevelopment and Reinvestment District shall be 40 feet. If adjacent to residential uses, the setback shall be 60 feet.

### **14A.8 Minimum and Maximum Height Regulations**

The minimum and maximum height regulations for properties in the I Redevelopment and Reinvestment District shall be as follows:

- A. Principal structures shall have a minimum height of 25 feet and a maximum height of 60 feet.
- B. Accessory structures shall have a minimum height of 10 feet and a maximum height of 25 feet.



## **14A.9 Potential Hazards and Nuisances**

All uses in the I Redevelopment and Reinvestment District must comply with Section 4.8 of this Code.

## **14A.10 Additional Requirements**

In addition to the standards established in this Chapter, uses within the I Redevelopment and Reinvestment District must conform to the standards established in Chapter 4 Supplemental District Regulations, Chapter 15, Bufferyards and Landscaping and Chapter 16, Off Street Parking and Loading.

Site plan review and, as applicable, conditional use approval by the Planning Commission is required for all uses within the I Redevelopment and Reinvestment District meeting one or more of the following criteria: new construction; change in use to a conditionally permitted use; or the construction or alteration of a building or structure within a business property that expands the total gross square footage of the existing building or structure by at least forty (40) percent, adds twenty five (25) or more parking spaces on the business property, substantially alters the existing traffic pattern or truck access on the business property, or substantially increases the occupancy of the business property. Site plan review shall be conducted in accordance with the standards and procedures set forth in Chapter 21.

## **14A.11 Donation of Greenspace**

Greenspace adjacent to floodplains may be donated to the Village of Fairfax in exchange for consideration by the Architectural Review Officer for modifications to the requirements of sections 14.4 – 14.8 and 15.4. The extent and nature of modifications to the requirements of the foregoing sections, if any, shall be within the discretion of the Architectural Review Officer.



## **CHAPTER 15 BUFFERYARDS AND LANDSCAPING**

### **15.0 Purpose**

The purpose of this Chapter is to provide minimum standards involving the development of land to provide attractive views from roads and adjacent properties; to screen from view visually undesirable uses; to require screening between incompatible land uses and to protect the health, safety and welfare of the community through the reduction of noise, air and visual pollution, and headlight glare.

### **15.1 Applicability**

This Section shall apply to new property development and any collective substantial improvements of existing structures, except for individual single family dwellings, two (2) and three (3) family dwellings (duplexes), parking lots of five (5) spaces or smaller. Substantial improvements of existing structures shall be defined as an increase in size and/or value of the existing structure by twenty (20) percent or more

### **15.2 General Requirement For Submission**

Any property to which this Section applies shall submit a bufferyard plan to the Planning Commission as part of the Site Plan Review process required in Section 21.5 Bufferyard plans shall be prepared by a registered landscape architect. The site plan shall contain the following information:

- A. Plans must be at a reasonable scale to indicate all types of proposed landscaping improvements at a minimum of 1" = 20' and shall include the following minimum information:
  1. North arrow and scale.
  2. The name of applicant/owner.
  3. The name, address and phone number of the person or firm responsible for the preparation of the buffering plans.
  4. The dates the plans are submitted or revised.
  5. All existing and proposed buildings and other structures, paved areas, planted areas, utility poles, fire hydrants, light standards, signs, fences and other permanent features to be added and/or retained on the site.

6. All existing plant material to be removed or retained and all new landscaping materials to be installed.
  7. All existing and proposed streets, sidewalks, curbs and gutters, railroad tracks, drainage ditches and other public or semi-public improvements within and immediately adjacent to the site.
  8. All property lines and easements.
  9. Any other information which is deemed appropriate by the Building Official.
- B. Details shall be shown for the planting of the types of trees, shrubs and ground cover within the bufferyard or landscaped area.

### **15.3 Approval**

- A. No site or development plan required under this Zoning Code shall receive final approval unless a landscaping plan has been submitted and approved.
- B. No Certificate of Occupancy shall be issued unless the following criteria are fully satisfied with regard to the approved landscape plan:
  1. Such plan has been fully implemented on the site; or
  2. Such plan, because of seasonal conditions, cannot be implemented immediately, but has been guaranteed by a postponed improvement agreement between the developer and the Village.

### **15.4 Bufferyard Standards**

#### **A. Maintenance of Landscaping and Bufferyards**

All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The Owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first. Violation of these installation and maintenance provisions shall be grounds for the Village to refuse a Zoning Certificate, require replacement of the landscape material or institute legal proceedings to enforce the provisions of this Section.

## B. Bufferyard Establishment

Once a bufferyard has been approved by the Planning Commission and established by the owner, it may not be used, disturbed or altered for any purpose.

## C. Quality and Installation

All specifications for the quality of trees and shrubs shall be in accordance with the American Standard for Nursery Stock (ANSI Z60.1). Installation of trees and shrubs shall be in accordance with industry standards

### I. Size

1. Canopy Trees shall be deciduous trees with a minimum of fifteen feet (15') overall height and a minimum caliper of 3 inches when installed, and have an expected height of at least thirty-five (35') feet at maturity.
2. Evergreen Trees shall be a minimum of ten feet (10') in height when installed.
3. Understory Trees shall be a minimum of fifteen feet (15') in height in clump form or 3 inch caliper in single stem form when installed.
4. Shrubs shall be at least thirty inches (30") in height and twenty-four inches (24") in spread when installed.

## E. Screens

The objective of providing a screen is to visually hide whatever is behind the screen. The screen shall be 100% opaque. The following standards for each screening material shall be required.

### 1. Planting Requirements.

To be counted towards screening requirements, evergreen trees and evergreen shrubs shall be planted close enough to fulfill the objective as defined in this Section. Recommended spacing to achieve this is as follows:

- a. Spreading evergreen trees should be planted eight feet (8') on center. Narrow evergreen trees should be planted four feet (4') on center. Designations of evergreen trees as spreading or narrow shall be certified by a licensed Landscape Architect or certified Horticulturist.
  - b. Evergreen shrubs should be planted at a maximum of 3' ' on center.
- ### 2. Combination of Materials.

Plant material may be used in conjunction with fences, walls and berms but the overall effect shall be a continuous 100% opaque screen at

maturity. Plants may be planted in rows or be staggered, but the overall effect shall be a 100% opaque screen

3. Fences.

Fences should be used where appropriate to create an effective screen between incompatible uses. Fences to be used as screens should be approved by the Planning Commission during review of the landscape plan and shall be in conformance with regulations as established in Section 4.4.

### **15.5 Screening And Buffering Required**

In order to provide protective screening and buffers for residential areas adjacent to nonresidential areas, the Planning Commission shall require a wall, fence and/or landscaping to be provided by the nonresidential property owner in accordance with the following:

- A. Screening areas shall be provided for the purpose of minimizing the friction between incompatible land uses and improving the aesthetic and functional quality of new development.
- B. Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question, every effort shall be made to retain such conditions. In such cases, additional screening may not be required, provided that provision is made for maintenance of such areas.

## 15.6 Bufferyard Requirements

WHEN...	IS PROPOSED TO ABUT...	A MINIMUM BUFFERYARD OF...
Any commercial, office, multiple family or institutional land use	Any Residence zone or land use	A bufferyard as specified in Figure 15 A.
Any industrial land use	Any Residence or commercial zone or land use	A bufferyard as specified in Figure 15 A.
Any non-residence or parking lot	Any public right-of-way	A streetscape buffer as specified in Figure 15 B

## 15.7 Modification

The Planning Commission shall have the authority to modify any of the aforementioned requirements in this Chapter. In considering an individual site with respect to changes in elevation, environmental impact, durability of plant material, aesthetic appeal, and any other factor that will develop a compatible buffer or screen with the surrounding neighborhood at the time of application.

**Figure 15A  
Boundary Bufferyard**

Minimum Width of Buffer	Landscape Material Requirements Per 100 linear feet		
	Evergreen Trees	Canopy Trees	Shrubs
10 ft.	6	4	20

**Notes:**

1. 2 understory trees or 2 evergreen tree may be substituted for 1 canopy tree for up to 50% of the required canopy trees.
2. A fence six feet (6') in height and with 100% opacity shall be placed at the nonresidential property line.
3. All landscape material required for the buffer shall be confined to within the required landscape strip.

**Figure 15B  
Streetscape Bufferyard**

Minimum Width of Buffer	Landscape Material Requirements Per 100 Linear Feet	
	Canopy Trees	Shrubs
10 ft.	8	40

**Notes:**

1. 2 understory trees or 2 evergreen tree may be substituted for 1 canopy tree for up to 50% of the required canopy trees.
2. A fence, wall or mounding 3 ft. to 4 ft. in height with 100% opacity may be used and can be substituted for 50% of the shrub requirements.
3. All landscape material required for the buffer shall be confined to within the required landscape strip.



## **CHAPTER 16 OFF-STREET PARKING AND LOADING**

### **16.0 General Requirements**

Any building, structure or use of land, when erected, enlarged, or changed in use, shall provide for off-street parking spaces for automobiles in accordance with the following provisions of this Chapter. A parking plan shall be required for all uses. The parking plan shall be submitted to the Village as part of the site plan review. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, boundary walls, fences and a screening plan, as appropriate. All parking areas shall be onsite or within two hundred (200) feet of such building, structure or use of land.

Whenever a building or use constructed or established after the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) percent or more in floor area or in the area used, such building or use shall then comply with the parking requirements set forth herein.

### **16.1 Off-Street Parking and Design Standards**

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

#### **A. Parking space dimensions**

Each off-street parking space shall have an area of not less than 162 square feet exclusive of access drives or aisles and shall be of useable shape and condition. All parking spaces must be a minimum of nine (9) feet wide and eighteen (18) feet long. Stacking spaces for drive-through windows must provide a space equal to the required parking spaces size.

#### **B. Access**

There shall be adequate provisions for ingress and egress to all parking spaces. Where the lot or parking spaces do not provide direct access to a public street or alley, an access drive shall be provided, with a dedicated easement of access as follows:

1. For single family detached dwellings or two or three family dwellings, the access drive shall be a minimum of eight (8) feet in width.

2. For all other uses, the access drive shall be a minimum of eighteen (18) feet in width.
3. All parking spaces, except those required for single family detached dwellings and two or three family dwellings, shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.
4. Parking for uses not permitted in a residence zone shall not be permitted in a residence zone, nor shall any Residential District property be utilized as access for uses not permitted in that Residence District.

#### C. Setbacks

Parking and vehicular areas for non-residential uses and multi-family dwellings shall be located a minimum of ten (10) feet from the right-of-way line or access easement and at least five (5) feet from a side or rear property line. Front parking setback areas shall be landscaped according to the regulations for streetscape bufferyards as established in Chapter 15.

#### D. Screening

Off-street parking areas for more than five (5) vehicles shall be effectively screened on each side which adjoins or faces any premises situated in any residence district or institutional premises, by a masonry wall or a solid fence of acceptable design. Such wall or fence shall not be less than four (4) feet nor more than six (6) feet in height, and shall be maintained in good condition without any advertising. The space between such wall or fence and the lot shall be landscaped with grass, hardy shrubs or evergreen ground cover, and maintained in good condition, free of debris and weeds. In lieu of such wall or fence, a strip of land not less than fifteen feet in width and planted with an evergreen hedge or dense planting of evergreen shrubs not less than four (4) feet in height may be substituted and this shall be maintained in good condition.

#### E. Paving

All off-street parking areas and all driveways shall be surfaced with a pavement having an asphalt or concrete surface of sufficient strength to support vehicular loads imposed on it while providing a durable, dustless surface.

1. To qualify as "pavement," concrete surfaces shall have a minimum thickness of four (4) inches and be designed to resist a severe weathering exposure as determined by the Building code. Asphalt surfaces shall have a minimum compacted thickness of two (2) inches and be placed on a minimum six (6) inch compacted crushed granular base.

2. In residential districts, No more than 25% of the surface area of each lot may be covered by pavement, including but not limited to parking areas, driveways walkways, patios, or any other concrete or asphalt slab.

#### F. Drainage

All parking spaces, together with driveways, aisles and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system. Retention or detention provisions shall be installed as required by the Village Engineer in accordance with Hamilton County provisions for storm water management.

#### G. Barriers

Wherever a parking lot extends to a property line, fencing, wheelstops, curbs or other suitable barriers shall be provided in order to prevent any part of a parked vehicle from extending beyond the property line and from destroying the screening materials.

#### H. Visibility

Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible by any pedestrian or motorist approaching the access or driveway from a public street, private street or alley.

#### I. Marking

All parking areas, excluding those for single family detached dwellings and two and three family dwellings, shall be marked with paint lines, curb stones or in some other manner approved by the Village and shall be maintained in a clearly visible condition.

#### J. Maintenance

Any owner of property used for parking areas shall maintain such areas in good condition without holes and free from all dust, trash, weeds and other debris.

#### K. Signage

Where necessary, due to multiple curb cuts, the entrance, exits and the intended circulation pattern shall be clearly marked in the parking area.

Signage shall consist of pavement markings or freestanding directional signs in accordance with Chapter 17, Signs, of this code.

L. Parking

All parking areas for commercial or industrial areas greater than five (5) spaces will be illuminated.

M. Vehicles Permitted on Village Residential Off-Street Parking Areas

1. Except for Service Vehicles and Recreational Vehicles, no motor vehicle shall be kept (including but not limited to parking or storage) on a Residential lot unless it is a vehicle customarily kept for utility and/or enjoyment on single family lots and has a gross vehicle weight of nine thousand nine hundred ninety nine (9,999) pounds or less. Commercial Vehicles shall not be kept on any Residential lot.
2. The total number of motor vehicles kept at any one time on a Residential lot shall not exceed five (5). All such motor vehicles must be owned, leased, rented, or otherwise permissively used by the occupants of the Residential lot or their invitees. Out of the total of five (5) motor vehicles permitted to be kept on a Residential lot at any one time, no more than two (2) such motor vehicles may be Service Vehicles or Recreational Vehicles.
3. No Recreational Vehicle may be kept in any front yard of any Residential lot or in any portion of a driveway between the street and the front building line of the main structure on the Residential lot except during camping and boating season, defined herein as April 1 to October 1 of each year. A Recreational Vehicle may be kept in a private driveway as long as the Recreational Vehicle is not less than twenty (20) feet behind the inside edge of the sidewalk.

**16.2 Determination of Required Spaces**

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

- A. Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross floor area of a specified use.
- B. Where seating capacity is designated as the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated for each twenty (20) lineal inches of seating facilities.
- C. Fractional numbers shall be increased to the next highest whole number.

- D. Parking space requirements for a use not specifically mentioned in this code, shall be determined by using the most similar and restrictive parking space requirement as specified by the Planning Commission.
- E. When the building floor area is designated as the standard for determining parking space requirements and that number is less than the minimum standard, at least one parking space shall be provided on the premises.

**16.3 Outdoor Lighting**

Outdoor lighting shall be reviewed by the Building Official and Planning Commission according to the standards established in Section 4.13.

**16.4 Parking Space Requirements**

For the purpose of this Zoning Code, the following parking space requirements shall apply:

- |    |                                  |  |
|----|----------------------------------|--|
| A. | Automotive Repair                | Two (2) spaces for each service bay.   |
| B. | Automobile Car Washes            | Automobile car washes shall provide sufficient stacking spaces for three (3) vehicles per bay.   |
| C. | Automotive Service Stations      | Two (2) spaces per fuel pump.  |
| D. | Automotive Sales                 | One space for each 800 square feet of floor area.  |
| E. | Bed and Breakfast                | One space for each guest room plus two (2) spaces for the permanent residence.                   |
| F. | Clinics – Medical and Dental     | One space for each 200 square feet of floor area.  |
| G. | Not for Profit or Service Clubs  | One space for each 250 square feet of floor area.  |
| H. | Contractor Yard                  | One space for each 1,000 square feet of floor area plus one (1) space for each facility vehicle. |
| I. | Convalescent/Nursing/ Rest Homes | One space for each four (4) beds.  |
| J. | Convenience Store                | One space for each 250 square feet of floor area.  |

K.	Day Care Center	One (1) space for each four (4) persons of design capacity.
L.	Educational Institution	Two (2) spaces for each classroom plus one (1) space for each four seats in the auditorium. High schools shall also include one (1) space for each ten (10) students at design capacity.
M.	Financial Institution	One (1) space for each 100 square feet of floor area plus sufficient stacking space to accommodate the number of automobiles equal to five (5) times the number of teller windows.
N.	Funeral Home	One (1) space for each 50 square feet of floor area plus one reserved space for each hearse or company vehicle.
O.	Group Home	One (1) space for each four (4) beds
P.	Hospitals	One (1) space for each two (2) beds.
Q.	Hotel/Motels	One (1) space for each sleeping room plus one (1) space for each 400 square feet of public meeting area and/or restaurant space accessory to the hotel/motel.
R.	Industrial/Manufacturing	One (1) space for each 400 square feet of floor area or one space for each three (3) employees on the maximum shift whichever is greater.
S.	Office	One (1) space for each 200 square feet of floor area.
T.	Personal Service	One (1) space for each 200 square feet of floor area.
U.	Printing and Publishing Establishment	One (1) space for each 400 square feet of floor area.
V.	Public Assembly Hall	One (1) space for each 50 square feet of floor area or one (1) space for each four (4) seats, whichever is greater.

W.	Public Buildings	One (1) space for each 200 square feet of floor area.
X.	Recreational, Non-Commercial	One (1) space for each participant at maximum utilization.
Y.	Recreational, Commercial	One (1) space for each three (3) seats or one (1) space for each 100 feet of floor area, whichever is greater.
Z.	Religious Places of Worship	One (1) space for each four (4) seats in the place of assembly.
AA.	Residential, Multiple Family	Two (2) spaces for each dwelling unit.
BB.	Residential, Single Family	Two (2) spaces for each dwelling unit.
CC.	Residential, Two Family	Two (2) spaces for each dwelling unit.
DD.	Research and Development Laboratories	One (1) space for each 200 square feet of floor area.
EE.	Restaurants	One (1) space for each four (4) seats or 100 square feet of floor area, whichever is greater.
FF.	Restaurants, Fast Food	One (1) space for each 100 square feet of floor area plus sufficient stacking space for five (5) vehicles at each drive through window.
GG.	Retail Business	One (1) space for each 150 square feet of floor area.
HH.	Taverns	One (1) space for each 100 square feet of floor area.
II.	Vet. Clinic/Animal Hospital	Four (4) spaces for each examination room.
JJ.	Warehouse and Wholesale	One (1) space for each 1,000 square feet.

## **16.5 Joint or Collective Parking Facilities**

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

- A. Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap.
- B. All required parking spaces shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or jointly by two (2) or more buildings or establishments, the required spaces may be located not farther than 500 feet from the building served.
- C. The total of such off-street parking spaces supplied collectively shall be not less than the sum of the requirements for the various uses computed separately.
- D. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by legal counsel of the Village and filed with the application for a zoning permit.

## **16.6 Off-Street Loading Design Standards**

All off-street loading spaces shall be in accordance with the following standards and specifications:

- A. Dimensions - Each loading space shall have a minimum dimension not less than 10 feet in width, 25 feet in length and a vertical clearance of not less than 14 feet in height.
- B. Access - All required off-street loading spaces shall have access from a public street or alley in such a manner that any vehicle leaving the premises shall be traveling in a forward motion.
- C. Paving - Any required off-street loading spaces, together with its appurtenant driveways, aisles and other circulation areas, shall be surfaced with a pavement having an asphalt or concrete binder of sufficient strength to support vehicular loads imposed on it while providing a durable, dustless surface.
- D. Drainage - All loading spaces, together with driveways, aisles and other circulation areas shall be graded and drained so as to dispose of surface



water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system.

- E. Lighting - Any lights used to illuminate a loading area shall be so arranged as to reflect the light away from any adjacent properties or right-of-way.

### **16.7 Submission to Planning Commission**

Detailed drawings of the location, width and number of entrance driveways to necessary parking and off-street loading facilities shall be submitted to the Planning Commission, with the exception of single family detached dwellings and duplexes, for approval prior to the granting of any Building Permit. Such drawing shall show the number of spaces and locations, dimensions and descriptions of all features enumerated in this Section or as required elsewhere in this Zoning Code. The Planning Commission may require, in addition to those enumerated, further structural or landscaping features such as bumper guards, curbs, walls, fences, shrubs, trees, ground cover or hedges to further the intent and purposes of this Zoning Code. The Planning Commission, in addition, may recommend such changes in location, width and number of driveways as it shall determine are necessary to eliminate any potential traffic hazards.

### **16.8 Off-Street Loading Design Standards**

All off-street loading spaces shall be in accordance with the following standards and specifications:

- A. Dimensions - Each loading space shall have a minimum dimension not less than ten (10) feet in width, twenty-five (25) feet in length and a vertical clearance of not less than fourteen (14) feet in height.
- B. Access - All required off-street loading spaces shall have access from a public street or alley in such a manner that any vehicle leaving the premises shall be traveling in a forward manner.
- C. Paving - Any required off-street loading spaces, together with its appurtenant driveways, aisles and other circulation areas, shall be surfaced with a pavement having an asphalt or concrete binder of sufficient strength to support vehicular loads imposed on it while providing a durable, dustless surface.
- D. Drainage - All loading spaces, together with driveways, aisles and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto public streets. Adequate

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## **CHAPTER 17 SIGN REGULATIONS**

### **17.0 Purpose and Findings**

It is the purpose of these sign regulations to permit the use of signs as a means of communication in the Village; to maintain and enhance the Village's natural and manmade environment; to encourage an attractive and healthy economic environment; to minimize the possible adverse effects of signs on nearby public and private property; to promote traffic safety; to reduce visual clutter; to preserve pleasant aesthetic values; and to enable the fair and consistent enforcement of these sign regulations.

The purpose as stated above is based on the following findings concerning signs:

- A. That excessive or intrusive signs create dangerous traffic conditions, intrude on motorist and pedestrian enjoyment of the natural and manmade beauty of the Village, and as such are detrimental to the public health, safety and general welfare of the Village.
- B. That business enterprises and other institutions located along public and private streets have a need to identify themselves and their activities to motorists and pedestrians by means of signs.
- C. That signs identified in Section 17.8(B) are common and traditionally acceptable signs that pose only de minimus harm to the public health, safety, and general welfare of the Village to which this Code is directed and, therefore, such signs do not require a Permit, but are still otherwise subject to the provisions of this Chapter.

### **17.1 General Provisions**

The following regulations shall apply to all permitted signs in the Village:

- A. Traffic Safety, Ingress and Egress, Ventilation:
  - 1. Notwithstanding any provisions of this Ordinance to the contrary, no sign shall be so located as to obstruct or interfere with traffic or traffic visibility.
  - 2. No sign shall be so designed or constructed as to resemble or imitate signs, devices or signals erected by the Village for the regulation of traffic and parking.
  - 3. No sign shall be so located as to obstruct or interfere with any ingress or egress to a building or other premises which is required by any applicable

Fire, Building or Zoning Codes or any window or other opening in any building providing ventilation to such building.

#### B. Illuminated or Animated Signs

1. No sign shall be permitted in the Village which rotates in which is incorporated animation, moving parts, flashing lights or changing colors.
2. Signs may be illuminated by either external or internal sources of light; however, no illuminated sign shall be permitted where any part of the illumination flashes on and off or displays change in any degree of intensity. Similarly, no illuminated sign shall be permitted within one hundred (100) feet of a traffic signal. Any illuminated sign that impedes the visibility of a traffic signal or creates a traffic hazard is prohibited.
3. Any external illuminated signs located within one hundred (100) feet of any Residence Zone shall cease to be illuminated between the hours of 10:00 P.M. and 6:00 A.M., unless the establishment is open for business.

#### C. Directional or Informational Signs

1. Small directional or informational signs, such as "IN", "OUT", "REST ROOMS", "REGULAR" and "PREMIUM", etc., shall be permitted, provided that such signs shall be limited to the following:
  - a. Two (2) square foot in any face area for each.
  - b. A maximum of two (2) signs per curb cut.
  - c. A total of no more than four (4) signs shall be permitted.
2. Such signs shall comply with the following provisions:
  - a. They may be internally lighted.
  - b. They must not exceed four (4) feet in height, nor may they obstruct the view of any drivers on or off the premises.
  - c. They shall be located no closer than five (5) feet to any property line or right-of-way.

#### D. Projecting Signs

1. No sign, whether freestanding or attached to a building or other structure may project over the right-of-way of any public street, sidewalk or other public right-of-way.

2. Any sign which encroaches on a right-of-way shall be immediately removed.

#### E. Unsafe Signs

1. Notwithstanding any provisions of this Chapter to the contrary, the Building Official shall make an inspection of all signs or other structures governed by this Chapter upon notice of a complaint or other good cause and, if upon such inspection, the Building Official shall determine that any such sign is or has become defective or insecurely mounted or supported so as to constitute a public or traffic hazard, the Building Official shall order such sign to be removed or repaired so as to eliminate such hazard.
2. If the Building Official determines that such sign is of immediate danger, he shall place or cause to be placed signs or barriers indicating such danger, and shall order its immediate removal or repair.
3. The Building Official shall order rusted signs or signs in disrepair or with peeling paint or other damage to be repaired or removed.
4. The owner or persons in control of such sign shall bear the full cost of compliance with such order of the Building Official.

#### F. Temporary Signs

1. "Temporary signs" are signs constructed of wood and cardboard or of wire frame and plastic or any other similar material not suited for long term use.
2. Temporary signs which serve as display devices, pennants, banners, flags, streamers or any other display devices which are of a temporary nature and which advertise or call attention to grand openings, special sales or other temporary business promotions may be erected only after obtaining the required Permit. Such signs shall be in accordance with the regulations set forth in this Chapter for the designated Zoning District in which the sign is to be located and may be erected only after obtaining the required Permit.
3. All temporary signs must be removed or replaced within 60 days of their posting, or before the expiration of 60 days if such signs deteriorate or are damaged beyond repair.
4. Two temporary signs shall be permitted for each business or residence, except that four such signs shall be permitted on corner lots. Such signs may have two faces with each sign face

area as follows:

- a. Non-commercial or Commercial Events
  - i. Maximum size = 25 square feet
- b. New development
  - i. Maximum size = 32 square feet
  - ii. No more than two such signs are permitted within one year.
- c. Political Signs
  - i. Maximum size = 3 square feet
  - ii. Such non-illuminated signs shall be at least 5 feet from all property lines and right-of-way.

## **17.2 Permitted Signs in Non-Residential Districts**

The following provisions define the categories of signs permitted by this Chapter in Non-Residential Zoning Districts and set forth certain specific regulations with respect to each category. All other provisions of this Chapter, which are by their nature applicable to any of the following categories of signs, shall apply to such categories.

### **A. Wall Signs**

Every commercial, business, industrial or institutional use located in a Non-Residential Zoning District may erect and maintain, upon or incorporated into the structure of the building or portion of a building in which such use is maintained, either illuminated or non-illuminated signs.

1. Such signs may be attached to the exterior walls or other vertical surfaces of such buildings but may not extend beyond the parapet of such building provided further that the face of such signs shall be parallel to the face of the building.
2. The total wall sign area on each building shall not exceed ten (10) percent of the area of the building elevation, the length times the height, facing the street or public way.
3. No portion of said signs shall project more than one (1) foot beyond the wall of the building, nor extend beyond the end of the building face.
4. No building shall have a sign or lettering painted directly on the building surfaces.
5. No building shall have a roof mounted sign, except for signs mounted on a canopy or the face of a mansard roof.

6. A property owner may allocate up to fifty (50) percent of the allowable total wall sign area to a building wall other than the front wall of the building, however, in no case shall the total wall sign area for the entire building exceed ten (10) percent of the front building face.
7. No wall sign shall exceed one hundred and fifty (150) square feet in area.

**B. Ground Signs**

1. Setback requirements for ground signs shall be as follows:

No portion of any freestanding, ground level sign shall be closer than five (5) feet to any property line or right-of-way.

2. Height requirements for ground signs shall be as follows:

No portion of any such sign may exceed ten (10) feet in height.

3. Distance between ground signs shall be as follows:

- a. No ground sign shall be closer than fifty (50) feet to any other freestanding signs.
- b. Distance shall be measured on a straight line directly between signs.

4. Number of ground signs permitted shall be as follows:

- a. Every commercial, business or industrial use or multiple development located in a non-residential Zoning District may erect and maintain one or more freestanding signs as follows:

<u>Road Frontage</u>	<u>Number of Signs Permitted</u>
0 to 400 feet	One (1) sign
401 to 800 feet	Two (2) signs
801 feet or more	Three (3) signs

- b. In the case of a user or multiple developments located on a corner lot, the aforesaid minimum frontage shall be computed by adding together the frontages on each abutting street or road.
- c. If the premises upon which a freestanding sign is erected fronting on more than one public street, other than a corner lot, the street frontage

nearest the sign(s) shall be used in determining the maximum number of permitted signs on such streets.

5. Display surface area for ground signs:

- a. The sign area for a ground sign shall not exceed fifty (50) square feet per display area. More than one display surface shall only be permitted when such surfaces are placed "back to back" and cannot be viewed at the same time.
- b. In the case of a multiple development, the permitted total area of display surfaces of a ground sign shall include all the display surfaces of any individual signs identifying separate uses in such multiple developments.
- c. In the case of a user of multiple developments located on a corner lot, the aforesaid minimum frontage shall be computed by adding together the frontages on each abutting street or road.
- d. If the premises upon which a freestanding sign is erected fronts on more than one public street, other than a corner lot, the street frontage nearest the sign shall be used in determining the maximum permitted sign area on such street.
- e. The allowable area of a freestanding sign may include a section for changeable letters. Such area shall not exceed fifty (50) percent of the sign area.

C. Portable Sidewalk Signs

1. Sidewalk Signs shall not exceed 1,092 square inches (7.6 square feet), 30 inches in width, or 42 inches in height, measured from the walking surface. Notwithstanding such maximum size, no Sidewalk Sign shall impede pedestrian traffic such that a single person, a standard child stroller, or a standard wheelchair cannot pass by while remaining fully on the sidewalk but avoiding contact with the Sidewalk Sign.
2. A maximum of one Sidewalk Sign is permitted for each commercial or business use.
3. Sidewalk Signs may only be displayed from April 1 through October 31 of each year.
4. Balloons, streamers, flags, or any similar flashy or eye-catching items may not be tied or otherwise connected to any Sidewalk Sign.



#### D. Landscaping of Signs

Any ground mounted sign shall have landscaping surrounding the sign according to the following standards:

1. The minimum landscaped area shall be equal to the area of the sign face or faces.
2. For minimum required plant sizes, see paragraph 15.4 D of this zoning code
3. All specifications for the quality of trees and shrubs shall be in accordance with the American Standard for Nursery Stock (ANSI Z60.1). All specifications for the installation of trees and shrubs shall be in accordance with industry standards.
4. The landscaped area shall include all points of structural support attachment to the ground.
5. Where the required landscaped area is adjacent to a paved surface accessible to vehicular traffic, a raised non-mountable curb suitable to prevent the encroachment of vehicles is required. The minimum horizontal distance between the face of any required curb and any part of the sign is thirty-six (36) inches.
6. The landscaped area shall include living plantings located and maintained. The use of concrete, asphalt or other paved surface inside the required landscaped area beneath the sign is prohibited.

### **17.3 Signs Permitted in Residential Zoning Districts**

The following provisions define the categories of signs permitted by this Chapter in Residence Zoning Districts and set forth certain specific regulations with respect to each category. All other provisions of this Chapter, which are by their nature applicable to any of the following categories of signs, shall apply to such categories.

#### A. Bulletin Boards

1. Bulletin boards or announcement signs may be erected and maintained for institutional uses allowed in residential zoning districts.
2. The area of each display surface of such signs shall not exceed thirty-two (32) square feet, nor the total of all surfaces exceed sixty-four (64) square feet.

3. If not attached flat against a building, said sign shall be at least five (5) feet from all front property lines and right-of-way.
4. A maximum of one (1) such non-illuminated sign shall be permitted per lot.

#### B. Real Estate Signs

1. Real estate signs advertising the sale, rental or lease of the premises on which they are erected and maintained shall be located at least five (5) feet from any property line or, at the seller's option, may be mounted flat against the premises to which it pertains.
2. The area of each display surface of such signs shall not exceed six (6) square feet, nor shall the total of all surfaces exceed twelve (12) square feet in Residential Zoning Districts.
3. Such sign shall be removed five (5) days after the closing on the premises is complete.
4. A maximum of one (1) such non-illuminated signs shall be permitted per lot.

#### C. Contractors Signs

1. Signs announcing the name of contractors, subcontractors, materials, suppliers, or architects participating in the construction or improvement of a building shall be permitted during the actual construction period, provided that such signs shall be located only on the parcel of land being improved.
2. Such sign shall be removed five (5) days after the construction is complete.
3. The area of each display surface of such signs shall not exceed five (5) feet in height and twenty-five (25) square feet per sign face in area per street frontage in Residential Districts.
4. The area of each display surface of such signs shall not exceed thirty-two (32) square feet, nor shall the total of all surfaces exceed sixty-four (64) square feet in all other Districts.
5. Said sign shall be at least five (5) feet from all property lines and right-of-way.
6. A maximum of one (1) such unlit sign shall be permitted per lot.

#### **17.4 Signs in a Planned Unit Development**

Signs in a Planned Unit Development shall conform to the regulations of the underlying district.

#### **17.5 Maintenance of Signs**

All signs, in all Districts, and the immediate surrounding premises shall be maintained by the owner of such sign or signs or his agent in a clean condition, free and clear of all rubbish and weeds.

#### **17.6 Village Not Responsible**

The Village of Fairfax is hereby not responsible for any signs which have been previously placed within the right-of-way of any street, highway, lane, avenue, road, drive or public thoroughfare and which have to be removed because of any reason whatsoever.

#### **17.7 Rights Reserved by the Village**

The Village of Fairfax reserves the right to erect Village name signs and traffic signs anywhere that the public health, safety and general welfare of the Village are served.

#### **17.8 Sign Permits**

Sign permits shall be regulated as follows:

- A. No sign shall be erected, enlarged, expanded, altered, (including face changes), relocated, reconstructed or placed unless a permit has been issued by the Building Official. The Building Official shall issue a permit when the requested sign otherwise complies with this Chapter. The forms and procedures to apply for a sign permit shall be administratively specified by the Building Official or other applicable officer.
- B. No permit shall be necessary for the following signs; however, such signs are still subject to the provisions of this Chapter including, but not limited to, this Chapter's regulations on size, height, and illumination:
  1. Real Estate Signs.
  2. Contractors Signs.
  3. Political Signs.

4. Signs erected by the Village.
  5. Signs not more than two (2) feet in height, on or over a show window or door of a store or business establishment, announcing without display or elaboration, only the name of the proprietor and the nature of the business.
  6. Signs not exceeding two (2) square feet of display surface on a residence building stating merely the name of the occupants and/or the street address.
  7. Signs not exceeding ten (10) square feet of display surface on a public building or institutional building use giving the name and nature of the occupancy and information as to the conditions of use or admission.
  8. One Sidewalk Sign per commercial or business use which otherwise conforms to the applicable requirements of this Code.
- C. Any fee to be charged for each sign permit shall be determined by Council.

## **CHAPTER 18 PLANNED UNIT DEVELOPMENT**

### **18.0 Purpose**

It is the purpose of the Planned Unit Development District to permit a developer, through consultation with Council and the Planning Commission, to develop a site according to an established plan which would supercede normal Zoning requirements of a particular Zoning District; however, the uses approved within a Planned Unit Development must conform to the uses as specified in the existing zoning district. Planned Unit Developments would permit creative site planning and permit a developer to incorporate such amenities as common open space into the overall site design. The Village Council may approve a Planned Unit Development (PUD) based on the following guidelines and procedures.

### **18.1 Types of Planned Unit Developments and Permitted Uses**

A PUD may be approved within any Zoning District, provided that the use(s) approved in the development plan by Council for the PUD complies with those uses identified as permitted or conditionally permitted within the existing Zoning District.

### **18.2 Required Contents of the Concept Plan**

The submission of a Concept Plan is required as the initial process for establishment of a PUD. The applicant is encouraged to engage in informal consultations with the Village Planning Commission prior to preparing the Concept Plan, it being understood that no statement or representation by Village Planning Commission members shall be binding upon the Commission. The applicant shall prepare a Concept Plan and shall submit the number of copies of this Concept Plan as specified by the Building Official along with the Application for a Change of Zoning District to the Village Planning Commission for approval.

This Concept Plan shall contain:

- A. A base map of the property showing land use, general topography and physical features and the following information:
  - 1. Property boundaries;
  - 2. Adjacent thoroughfares and access points;
  - 3. Vehicular and pedestrian circulation;
  - 4. Location of different land use areas;

5. Density levels of each area;
  6. Location of schools, parks or other community facility sites, if any;
  7. Setback and height requirements;
  8. Proposed drainage;
  9. General utility layout;
  10. Parking layout;
  11. Proposed sign plan; and
  12. Any other information specifically requested by the Village to adequately review the proposed PUD.
- B. Time schedule of projected development if construction is to extend beyond a two (2) year time period.

The Village Planning Commission shall study the application and Concept Plan and shall hold a public hearing within sixty (60) days of the time of application. Following this public hearing, the Village Planning Commission shall make a report to the Village Council recommending approval or disapproval and the reasons therefore. The Village Planning Commission may explicitly impose special conditions relating to the any pertinent development characteristics as needed in making a determination.

### **18.3 Conditions of Approval**

Upon receipt of the report of the Village Planning Commission, the Village Council shall study and review the proposed Concept Plan and shall approve or disapprove the application on the basis of (1) all application requirements have been satisfied, and (2) finding that the following specific conditions are met:

- A. That each individual section of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained;
- B. That the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts in these regulations;

- C. That the internal streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic;
- D. That any part of a planned unit development not used for structures, parking and loading areas or streets shall be landscaped or otherwise improved.
- E. The development will not impose an undue burden on public services and facilities such as fire and police protection.
- F. That the density of each individual phase of the Planned Unit Development, as well as the density of the entire project shall not exceed the maximum allowable density as permitted in the underlying districts, except as provided for in the Section 18.4.

#### **18.4 Increase in Density**

Upon a recommendation of the Planning Commission, and subject to final approval by Council, an increase in density of fifteen (15) percent may be permitted over the maximum allowable density of the underlying zoning district(s).

#### **18.5 Village Planning Commission and Village Council Action**

Action by the Village Planning Commission and the Village Council shall be as follows:

- A. If from the facts presented, the Village Planning Commission and Village Council are unable to make the necessary findings specified in Section 18.3. , Conditions of Approval, the application shall be denied or returned to the developer for clarification. In taking action, the Village Planning Commission and Village Council may deny the Concept Plan or may recommend approval of said plan subject to specified amendments.

If the application is approved by Council, the approval of the Concept Plan shall be limited to the general acceptability of the land uses proposed, density levels and their interrelationship, and shall not be construed to endorse precise location of uses, configuration of parcels, or engineering feasibility which are to be determined in subsequent preparation of detailed site development plans.

Approval of the Concept Plan shall constitute the creation of a separate "PUD" Planned Unit Development Zoning District. The new zoning designation shall incorporate the existing zoning classification.

- B. At the time of adopting any Ordinance establishing a "PUD" District, the Village Council shall make appropriate arrangements with the applicant,

which will ensure the accomplishment of the public improvements and reservation of common open space of the public improvements shown on the approved Concept Plan.

### **18.6 Detailed Site Development Plan Approval Procedure**

Once the Concept Plan has been approved by the Village Planning Commission and Village Council, detailed site development plans for each section of the overall planned unit development landholding must each be reviewed and approved by the Village Planning Commission prior to the issuance of any Zoning Certificate by the Village Building Official.

The detailed site development plans shall be in accordance with the original Concept Plan; shall be prepared for the applicant by a professionally competent engineer, architect and/or landscape architect; and shall include the following:

- A. Site plan indicating lot lines, building outlines, off-street parking and loading spaces, pedestrian walkways and vehicular circulation.
- B. Preliminary building plans, including floor plans and exterior elevations.
- C. Landscaping and buffering plans.
- D. Evidence that the development will not impose an undue burden on public services and facilities such as fire and police protection.
- E. Specific engineering plans, including site grading, street improvements, drainage and utility improvements and extensions as necessary.

Approval of each detailed site development plan for each unit of a PUD District shall be valid for one (1) year. No Zoning Certificate or Building Permit shall be issued for any structure within the Planned Unit Development until the final Subdivision Plat has been recorded with the County Recorder.

### **18.7 Amendments to an Approved Planned Unit Development**

An approved PUD Concept Plan or Detailed Site Development Plan may be amended by following the procedures described in this Chapter. However, minor adjustments in the Detailed Development Plan which become necessary because of field conditions, detailed engineering data, topography or critical design criteria may be authorized in writing by the Planning Commission. These minor adjustments may be permitted, provided that they do not increase density, decrease the number of parking spaces or allow buildings closer to residential property lines. Changes determined to be major shall require review and approval by the Village Council.



## **CHAPTER 19**

### **ARCHITECTURAL REVIEW OVERLAY DISTRICT (AROD)**

#### **19.0 Purpose**

The designation of a specific geographic area delineated on the Official Zoning Map as an Architectural Review Overlay District (AROD) shall trigger the supplemental regulations and standards adopted herein for property located in the AROD. Such supplemental regulations and standards are made to enhance the character, quality, and use of the area and of the Village as a whole.

#### **19.1 Identification**

The location of any AROD shall be shown on the Zoning Map as an overlay zone superimposed in specific areas over existing zoning district areas.

#### **19.2 Applicability**

This Chapter applies within a designated Architectural Review Overlay District to: new construction; change in use to a conditionally permitted use; or the construction or alteration of a building or structure within a business property that expands the total gross square footage of the existing building or structure by at least forty (40) percent, adds twenty five (25) or more parking spaces on the business property, substantially alters the existing traffic pattern or truck access on the business property, or substantially increases the occupancy of the business property. No such work shall be performed, and no Zoning Certificate or Building Permit shall issue, prior to an approved site plan as outlined in this Code.

#### **19.3 Creation**

The Village Council may, from time to time, create Architectural Review Overlay Districts as needed.

#### **19.4 Adoption**

ARODs shall be adopted as a map amendment to the Official Zoning Map as delineated in this Zoning Code.

#### **19.5 Wooster Pike Architectural Review Overlay District Regulations (See *Wooster Pike Design Guidelines included in Appendix 2.*)**

The purpose of the Wooster Pike AROD is to promote the growth and development of a business district that reflects the scale and character of a traditional neighborhood. The architectural regulations encourage design that reflects human scale and promotes pedestrian friendliness. The standards encourage quality design and promote good land use planning principles in a

manner that protects and improves property values for the economic future and welfare of the Village.

In addition to the regulations contained in this Code, parcels located in the Wooster Pike Architectural Overlay District shall comply with the following regulations:

A. Permitted Uses in Front Yard Setback

1. The front yard setback area may be used for sidewalks; streetscaping, ornamental flowers, trees or other landscape material; benches or other pedestrian related facilities.
2. The front yard setback area may not be utilized for parking, circulation or loading purposes. Other than for sidewalks or required entrance landings/pavement, this area shall not be paved.

B. Building Standards and Materials.

1. Building facades shall incorporate a main entrance door on Wooster Pike.
2. For commercial use, at least sixty percent (60%) of each building façade facing public streets shall be window glass between the height of two (2) and ten (10) feet above the sidewalk grade.
3. All roof-mounted mechanical equipment shall be screened from view from fifty (50) feet off all property lines. The design and materials of mechanical enclosures shall be architecturally integrated with the rooftop and the balance of the entire building.
4. All ground-mounted mechanical equipment shall be screened from view to the height of the equipment.
5. Construction materials shall be restricted to stone, brick, natural wood, clapboard, wood board and batten, wood shingles, metal accents, stucco or EIFS wall systems.

C. Drive-in, Drive-Through Uses.

In addition to the regulations in Section 4.1, the following regulations apply to Drive-in, Drive-Through uses in the Wooster Pike AROD:

1. Drive-in structures shall be attached to the principal building.

2. Drive-in windows and services shall be accessed only at the rear or side of the building.
3. Walk-up windows are permitted on any façade of the building.

#### D. Parking and Screening.

1. Parking and vehicular circulation is prohibited in the front yard setback area.
2. Parking, stacking and circulation aisles between the right-of-way line of Wooster Pike and any building are prohibited.
3. New driveway access points onto Wooster Pike are not permitted unless designated as part of a Village approved access management plan.
4. Parking lots and structures shall be located to the rear of the principal building or structure.
5. The majority of parking shall be located to the rear of the principal building with remaining parking located to the side of the principal building.
6. The parking lot setback line shall be a minimum of ten (10) feet from the right-of-way line of any public street.
7. All sides of any parking lot that front on public streets shall be screened in accordance with Chapter 16 except that a four (4) foot high masonry wall can be substituted for one half (½) or five (5) feet of the required setback distance as well as the required shrubbery.

#### E. Signage

Signage is limited to wall signs and ground mounted signage.

1. For one business on one parcel or for multiple businesses on one parcel of lane (whether occupying individual buildings or one building):

Ground mounted signs located on each parcel shall not exceed five (5) feet in height and twenty-five (25) square feet per sign face in area per street frontage.

2. Wall signs are as regulated in Chapter 17 Sign Regulations of

this Zoning Code.

3. All ground mounted signage shall be landscaped at the base of the sign to an area equal to the face of the sign

**19.6 Red Bank Road Architectural Review Overlay District Regulations** *(See Red Bank Road Design Guidelines included in Appendix 3.)*

In addition to the regulations otherwise contained in this Code and not in conflict with this Chapter, property located in the Red Bank Road AROD shall comply with the following regulations:

A. Permitted Uses in Front Yard Setback

1. The front yard setback area may be used for landscaping, streetscaping or pedestrian oriented walkways for entrance into buildings.
2. With the exception of pedestrian oriented walkways as permitted in this Code, there shall be no other paved areas within the front yard setback.
3. No other uses are permitted within the front yard setback.

B. Building Standards and Materials

The following building standards and materials shall apply to all properties subject to the Red Bank Road AROD:

1. Exterior building walls, visible from public rights-of-way, shall incorporate windows, doors or other architectural features to prevent any blank facades.
2. Construction materials for exterior walls that are visible from the public rights-of-way, shall be limited to metal accents, natural stone or brick. Solid glass facades may be approved by the Planning Commission on a case by case basis when consistent with the purposes of the AROD.
3. All roof mounted mechanical equipment shall be screened from view from 50 feet off all property lines. The design and materials of mechanical enclosures shall be architecturally integrated with the rooftop and the balance of the entire building.
4. All ground mounted mechanical equipment and dumpsters shall be screened from view to the height of the equipment on all sides. Exterior walls and access points to such areas shall be of a similar nature to that of the building(s) it serves.

C. Parking and Screening

1. Parking and vehicular circulation shall be prohibited in the front yard setback areas. However, limited parking spaces for handicapped parking and temporary spaces for pick up and delivery may be approved on a case-by-case basis by the Planning Commission within the front yard setback.
2. Parking lots and parking structures shall be located to the side or rear of principal buildings or structures.
3. No parking shall be located in the applicable yard between Red Bank Road and the structure(s) on the parcels immediately adjacent to Red Bank Road.
4. All parcels shall be accessed from an internal circulation drive and not directly from Red Bank Road. Furthermore, no new driveway access points onto Red Bank Road shall be permitted unless designated as part of a Village approved access management plan.
5. All sides of any parking lot that can be seen from public rights-of-way shall be screened in accordance with Chapter 16 of these regulations except that a four (4) foot high masonry wall, made of brick or natural stone, may be substituted for one half (1/2) or five (5) feet of the required setback distance as well as the required shrubbery.

D. Signage

1. Signage is limited to wall signs and ground mounted signage.
  - a. For one business on one parcel or for multiple businesses on one parcel (whether occupying individual buildings or one building):  
Ground mounted signs located on each parcel shall not exceed five (5) feet in height and twenty-five (25) square feet per sign face in area per street frontage.
2. Wall signs are as regulated in the Sign Chapter of this Zoning Code.
3. All ground mounted signage shall be landscaped at the base of the sign to an area equal to the face of the sign.



**CHAPTER 20**  
**ARCHITECTURAL REVIEW OFFICER**

**20.0 Establishment.**

There is established an Architectural Review Officer (ARO) consisting of one person appointed by the Mayor with the approval of Council.

**20.1 Powers.**

Aside from any other powers provided by law, the ARO shall have the following powers:

- A. As it pertains to any AROD, perform all functions and exercise all powers otherwise designated to the Building Official under this Code, and follow all procedures set forth in this Code applicable thereto.
- B. Review and issue a written decision to the applicant and the Planning Commission as to all complete applications for a Zoning Certificate in any AROD.
- C. Review and issue a written decision to the applicant as to all proposed signs or sign changes in any AROD.
- D. Otherwise review and issue a written decision to the applicant as to all exterior construction and alteration plans in any AROD.
- E. Review and issue a written review to the applicant and the Planning Commission as to all complete site plan applications as required by the Zoning Code.
- F. Upon the Planning Commission's approval of a proposed site plan, review all complete applications submitted to obtain the necessary zoning, engineering, and building permits.
- G. Unless otherwise specified in this Code, the ARO shall issue a written decision, or as set forth in Section 21.5 (F)(1), a written review, upon all complete applications within thirty (30) days of the date of the filing. Failure to so act within this period as to a complete application shall entitle the applicant to submit the application directly to the Planning Commission, or, as appropriate, the Zoning Board of Appeals. The Planning Commission or the Zoning Board of Appeals may refer applications back to the ARO for further review.

## **20.2 Term And Qualifications.**

The ARO shall be appointed for a term of 2 years and shall hold such qualifications in the field of aesthetics and design as deemed desirable by the Mayor and Council.

## **20.3 Conflict Of Interest.**

The person appointed to be the ARO shall not participate in the review of, or give advice upon, any work in which a partner or professional associate or associates has any direct or indirect interest. In the event that such a conflict of interest may arise, or the ARO is unable to participate in the review, a temporary ARO shall be appointed for such work in the same manner as the ARO is appointed.

## **20.4 Compensation.**

Compensation shall be paid the ARO as established by the Village Council for the professional services provided.

## **20.5 Application Review Procedures.**

All applications for site plan review shall be submitted and reviewed according to the procedure set forth in Section 21.5 of this Code.

## **20.6 Zoning Certificate Application Review Procedures**

A. All applications for a Zoning Certificate shall be submitted to the ARO. Within 30 (thirty) days following the receipt of a complete application and plans submitted after the Planning Commission's approval of the applicant's site plan, the ARO shall submit a written decision to the applicant and the Planning Commission of the approval or disapproval of the Zoning Certificate. If disapproved, the decision shall set forth the basis for the determination, pursuant to the standards and criteria set forth in (B) below. The ARO's decision shall be open to public inspection.

B. In reviewing an application, the ARO shall consider the following criteria:

1. Materials. Materials shall be appropriate for the use of building and for relationship to other materials including those used on buildings in surrounding areas.
2. Colors and textures. Colors and textures shall be appropriate for the size and scale of the building, and for relationship to the site and surrounding buildings.
3. Architectural details and ornaments. Architectural details and ornaments shall be meaningful to the overall design and appropriate for the size and scale of the building.



4. Mechanical equipment. Mechanical equipment shall be considered as it effects rooftop appearance, sidewall openings, sound levels, smoke, and other nuisance aspects.
  5. Approaches, drives, and parking areas. Approaches, drives and parking areas shall be considered as they affect the appearance from the street and from the site as well. The relationship of paving to the building shall be appropriate considering factors such as landscaping, safety, and drainage, from the site.
  6. Landscaping. Landscaping shall be appropriate for the size and use of the area, and for its relationship to building, street, parking area, walks, buildings, and surrounding areas.
  7. Lighting. Lighting shall be considered for the appropriateness of nighttime illumination of the grounds, drives, walks, parking areas, the building, and its effect upon surrounding areas.
  8. Signs. Signs shall be considered for appropriateness of size, scale, shape, color, content, text and illumination in relation to the site.
  9. Utilities. Adequate utilities, parking, access roads, drainage, landscape planting, and other essential facilities and amenities to be provided. Underground utilities shall, wherever feasible, be placed underground.
  10. Ingress and egress. Adequate measures will be taken to provide ingress and egress designed so as to minimize traffic congestion in the public streets.
  11. Service. All service, loading, and shipping areas of commercial and industrial buildings shall be concealed and screened by fences, walls, landscaping, berms or other approved methods and located so as not to create pedestrian or traffic congestion.
  12. Specific Regulation identified in Chapter 19. All specific regulations identified in the particular Architectural Overlay District identified in Chapter 19.
- C. The application shall otherwise comply with the standards and criteria of all appropriate and applicable Chapters of this Code and any other Ordinances of the Village in relation to this site.

D. An applicant may appeal the decision of the ARO as to a zoning certificate to the Zoning Board of Appeals pursuant to the procedures set forth in Chapter 24.

**20.7 Variances**

All requests for a variance from the requirements for a Zoning Certificate or otherwise in an ARO shall be governed by the procedures set forth in Chapter 24.

## **CHAPTER 21 ADMINISTRATION**

### **21.0 Purpose**

This Chapter sets forth the powers of the Planning Commission and the Building Official with respect to the administration of the provisions of this Code.

### **21.1 Powers of the Building Official**

A Building Official shall be appointed by the Mayor with the approval of Council. The Building Official shall have the following powers:

- A. Enforce the provisions of this Code and interpret the meaning and application of its provisions, including both map and text.
- B. Receive, review and make determinations on applications for Building Permits, Conditional Use Permits, and Zoning Certificates not otherwise assigned by this Code to the ARO.
- C. Keep a record of Zoning Certificates and Building Permits with notations of special conditions involved.
- D. Review and process plans pursuant to the provisions of this Code.
- E. Make determinations as to whether violations of this Code exist, determine the nature and extent thereof, and notify the owner in writing, specifying the exact nature of the violation and the manner in which it shall be corrected by the owner, pursuant to the procedures in this Code.
- F. Conduct inspections of buildings and uses of land to determine compliance or non-compliance with this Code.
- G. Maintain permanent and current records required by this Code, including but not limited to the Official Zoning Map, Zoning Certificates, inspection documents and records of all variances, amendments and conditional uses. These records shall be made available for use of the Village Council, Planning Commission, the Zoning Board of Appeals and to the public.
- H. Revoke a permit or approval issued contrary to this Code or based on a false statement or misrepresentation in the application.
- I. Unless otherwise specified in this Code, the Building Official shall issue a written decision upon all complete applications and plans within thirty (30) days of the date of the filing. Failure to so act within this period as to a

complete application shall entitle the applicant to submit the application directly to the Planning Commission, or, as appropriate, the Zoning Board of Appeals. The Planning Commission or the Zoning Board of Appeals may refer applications back to the Building Official for further review.

- J. Serve as the ARO unless a different ARO is appointed by the Mayor and approved by Council.
- K. If applicable, receive and review site plan review applications and issue written decisions to the Planning Commission as set forth in Section 21.5 (F).
- L. Receive, review, inspect, and issue Occupancy Permits.

## **21.2 Village Planning Commission**

The Village Planning Commission shall be organized and empowered as follows:

### **A. Membership**

The Planning Commission shall consist of five members including the Mayor, one (1) member of Council (to be elected by Council) and three (3) other residents of the Village appointed by the Mayor. All members of the Planning Commission shall be residents of the incorporated area of the Village. The length of the Commission members shall be as established in the Ohio Revised Code.

### **B. Powers**

The Planning Commission shall have the following powers as they relate to this Code:

1. Carry on a continuous review, when appropriate, of the effectiveness and appropriateness of this Code and recommend such changes or amendments as it deems advisable.
2. Hold public hearings, notice of which shall be given in accordance with Section 713.12, as amended, of the Ohio Revised Code.
3. Initiate advisable Official Zoning District Map changes, or changes in the text of the Code where same will promote the best interest of the public in general through recommendation to the Village Council.
4. Review proposed zoning amendments and Planned Unit Development applications as filed by a property owner.
5. Conduct and decide site plan review for projects requiring such review.
6. Review and decide Conditional Use Permits in any AROD.

7. Function as provided by all other applicable provisions of law, including Chapter 713 of the Ohio Revised Code, as amended.

### C. Conditional Uses

The Planning Commission may hear and decide upon, in accordance with the provisions of these regulations, applications for a Conditional Use Permit in any AROD. The purpose of a Conditional Use Permit is to allow a property integration of uses into the Village which may only be suitable in specific locations within certain Zoning District(s) or only if such uses are designated or laid out in a particular manner on the site.

In considering an application for a Conditional Use Permit, the Planning Commission shall make an affirmative finding that the proposed Conditional Use is to be located in a district wherein such use may be conditionally permitted, and that all conditions for approval of Conditional Uses have been met. The Planning Commission shall give due regard to the nature and condition of all adjacent uses and structures and the consistency therewith of the proposed Conditional Use and any potential nuisances.

Before deciding the Conditional Use Permit, the Planning Commission shall hold a public hearing on the same. Notice of the hearing shall be given not less than ten (10) days prior to the date of public hearing, by publishing notice in a newspaper of general circulation in the Village. The failure of any person, other than the applicant, to receive notice of any public hearing, shall in no way affect the validity of any action taken at or after the hearing.

An application for a Conditional Use Permit shall contain the following information:

1. The total area in the development;
2. The existing zoning of the property in question and/or all adjacent properties;
3. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned;
4. Existing topography with a maximum of five (5) foot contour lines;
5. The proposed finished grade of the development shown by contours not larger than two (2) feet;
6. The locations of all existing and proposed buildings in the described parcels, the uses to be contained therein and the total number of buildings including dimensions, heights, gross floor area and number of stories;
7. Location and dimension of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, angles of stalls, grades, surfacing materials, drainage plans, and illumination of facilities;
8. All sidewalks and other open areas;

9. Location of all walls, fences, and buffer yards;
10. Location, size, height, colors, typeset, materials, lighting, and orientation of all signs;
11. Location of all existing proposed streets, highways and alleys;
12. All existing and proposed water and sanitary sewer lines indicating pipe sizes, types and grades;
13. The schedule of phasing of the project;
14. Such other information as required by the Planning Commission to determine compliance with this Code.

D. Standards for Conditional Use

The Planning Commission shall not grant a Conditional Use Permit unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:

1. The proposed Conditional Use will comply with all applicable regulations of this Code, including lot size requirements, development standards and use limitations;
2. Adequate utility, drainage and other such necessary facilities have been or will be provided;
3. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion to public streets and alleys;
4. All necessary permits, and licenses for the use and operation of the Conditional Use have been obtained, or evidence has been submitted that such permits and licenses are obtainable for the proposed Conditional Use on the subject property;
5. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets given access to it, shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located;
6. The location, nature and height of buildings, structures, walls, and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings and structures;
7. Evidence that the Conditional Use desired will not adversely affect the public peace, health, safety, or general welfare.

E. Conditions and Restrictions

In granting a Conditional Use Permit, the Planning Commission may impose such conditions, safeguards and restrictions upon the premises benefited by the Conditional Use as may be necessary to comply with the standards set out in this Chapter to reduce or minimize potentially injurious affects of such Conditional

Uses upon other property in the neighborhood, and to carry out the general purpose and intent of this Code.

F. Period of Validity

A Conditional Use Permit granted by the Planning Commission shall terminate at the end of one year from the date on which the Planning Commission grants the Conditional Use Permit, unless within the one year period a building permit is obtained and the erection or alteration of a structure is started and maintained.

### 21.3 Zoning Certificates

A. Requirements

No person, business or other entity shall erect, construct, alter or change the use of any building, structure or property within the Village without obtaining a Zoning Certificate. No Zoning Certificate shall be issued unless the plans for the proposed building or structure fully comply with all the provisions of these regulations.

B. Provision of Utility Services

No public utility company or supplier of electrical service shall supply initial utility services to any use until such time as a Zoning Certificate is presented to such public utility or electrical service company which indicates that the building to be serviced has been officially approved by the Building Official. No Zoning Certificate shall be issued until the applicant has furnished evidence from the utility companies that all necessary services, including but not limited to, water, sewer, gas, electric, and telephone are available.

C. Application

Application for a Zoning Certificate shall be made to the Building Official. Where a Zoning Certificate is included with a Building Permit, a separate application need not be made. Each written application shall include the following:

1. Three (3) copies of residential construction and five (5) copies of drawings for commercial construction showing the actual shape and dimensions of the lot to be built upon, or to be changed in its use, in whole or in part;
2. The location of the lot, existing zoning and land use, including the immediately surrounding area;
3. The location, size and height of any building or structure to be erected or altered;

4. The existing or intended use of each building, structure or use of land where no buildings are included; and
5. The number of families or dwelling units each building is designed to accommodate, if applicable.

D. Time Limit

If a Zoning Certificate is issued for the purpose of constructing a new building or structure and such construction is not begun within six (6) months of its issuance, the Zoning Certificate shall be null and void.

E. Variance

All requests for a variance from the requirements for a Zoning Certificate shall be governed by the procedures set forth in Chapter 24.

#### **21.4 Text Amendments and Changes of Zoning Districts**

All amendments to the Zoning Code or changes of Zoning Districts on the Official Zoning District Map shall be made in accordance with the provisions in the Ohio Revised Code, Chapter 713, as amended. Any applicant for a change in Zoning Districts shall provide to the Village the names and mailing addresses of all property owners within two hundred feet of the subject property, who shall be notified of the amendment application and the time of any public hearing.

#### **21.5 Site Plan Review**

Site plan review shall be as follows:

A. Applicability

This section applies to all site plans required by, or pursuant to, the Zoning Code. No building which requires an approved site plan shall be erected or altered on any lot or parcel except according to a site plan approved by the Planning Commission. No Zoning Certificate or Building Permit shall issue for any building which requires an approved site plan except according to a site plan approved by the Planning Commission.

B. Application for Site Plan Review

All applications and plans for site plan review shall be submitted to the Building Official or, as appropriate, the ARO.



In advance of a formal application being submitted, the applicant may schedule a preliminary review with the Building Official, or as appropriate, the ARO, to establish the intent and scope of the proposed project and to review the proposal evidenced schematically. The Building Official, or as appropriate, the ARO, may furnish the applicant with written comments regarding such conference including recommendations to inform and assist the preparation of the formal site plan review application.

### C. Contents of Site Plan Application

A complete application for site plan review shall consist of a completed application form, payment of the appropriate fee, as set forth in (D) of this Section, and four (4) sets of complete engineered plans, at a scale no smaller than one (1) inch to thirty (30) feet, which identify and locate the following:

1. The total area in the development;
2. The existing zoning of the property in question and/or all adjacent properties;
3. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned;
4. Existing topography with a minimum of five (5) foot contour intervals;
5. The proposed finished grade of the development shown by contours not less than one (1) foot;
6. The locations of all existing and proposed buildings in the described parcels, the uses to be contained therein and the total number of buildings including dimensions, heights, gross floor area and number of stories;
7. Location and dimension of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, angles of stalls, grades, surfacing materials, drainage plans, and illumination of facilities;
8. All sidewalks and other open areas;
9. Location of all walls, fences, and buffer yards;
10. Location, size, height, colors, typeset, materials, lighting, and orientation of all signs;
11. Location of all existing proposed streets, highways and alleys;
12. All existing and proposed water and sanitary sewer lines indicating pipe

sizes, types and grades;

13. The schedule of phasing of the project;
14. A lighting plan including photometric information and proposed style and height of light fixtures;
15. A landscape plan;
16. Such other information as is deemed necessary by the Building Official or ARO in order to conduct a complete review of the application.

#### D. Fees

Reference the current fee schedule adopted by Council.

#### E. Site Plan Review Guidelines

The following principles shall guide the exercise of site planning review:

1. The natural topography and landscape features of the site shall be incorporated into the plan and the development.
2. Buildings and open spaces should be in proportion and in scale with existing structures and spaces in the area within three hundred (300) feet of the development site.
3. A site that has an appearance of being congested, over built or cluttered can evolve into a blighting influence and therefore such should not be congested, over built or cluttered.
4. Open spaces should be linked together.
5. Natural separation should be preserved or created on the site by careful planning of the streets and clustering of buildings using natural features and open spaces for separation. Existing vegetation removal should be kept to a minimum.
6. Screening of intensive uses should be provided by utilizing landscaping, fences or walls to enclose internal areas.
7. Buildings should be sited in an orderly, non-random fashion. Long, unbroken building facades should be avoided.

8. In connection with the siting of mid-rise and high-rise building, the location should be oriented to maximize the privacy of the occupants of adjacent buildings.
9. Short loop streets, cul-de-sacs and residential streets should be used for access to low density residential land uses in order to provide a safer living environment and a stronger sense of neighborhood identity.
10. Street location and design shall conform to existing topographic characteristics. Cutting and filling shall be minimized in the construction of streets. Flat as possible grades shall be utilized proximate to intersections.
11. Pedestrian circulation in non-residential areas should be arranged so that off-street parking areas are located within a convenient walking distance of the use being served. Handicapped parking should be located as near as possible to be accessible to the structure. Pedestrian and vehicular circulation should be separated as much as possible, through crosswalks designated by pavement markings, signalization or complete grade separation.
12. Path and sidewalk street crossings should be located where there is a good sight distance along the road, preferably away from sharp bends or sudden changes in grade.
13. Parking lots and garages should be located in such a way as to provide safe, convenient ingress and egress. Whenever possible there should be a sharing of curb cuts of more than one facility. Parking areas should be screened and landscaped and traffic islands should be provided to protect circulating vehicles and to break up the monotony of continuously paved areas.
14. Drive through establishments such as restaurants and banks should be located to allow enough automobile waiting space for peak hour operation without interference with other parking lot circulations.

#### F. Action on Application for Site Plan Review

1. Unless otherwise specified in this Code, the Building Official, or, as appropriate, the ARO, shall issue a written review upon all complete applications and plans within thirty (30) days of filing.
2. The written review shall be issued to the applicant and to the Planning Commission, and shall advise the Planning Commission as to the design, amenities, quality, relationships to natural features, existing buildings, and all other aspects of a site

development plan which relate to the appearance and function of an entire project, and all of its parts and surroundings.

3. The written review shall recommend that the application is acceptable as submitted, acceptable with conditions and/or modifications, or is unacceptable, and shall set forth the basis for the recommendation.

In the event a zoning variance is required by an applicant for a zoning certificate to comply with the requirements set forth by the ARO pursuant to the requirements of this Code, the ARO may recommend to the Planning Commission as to the nature and extent of said zoning variance request. The Planning Commission may consider the recommendation as constituting a hardship and render a decision on the matter during the site plan review process required by Chapter 19.4. The failure of the Building Official, or, as appropriate, the ARO, to act within the specified period as to a complete site application shall entitle the applicant to submit the application directly to the Planning Commission. The Planning Commission may refer applications back to the Building Official, or, as appropriate, the ARO, for further review.

5. The Planning Commission shall meet on the second Thursday of each month, as necessary. A site plan review application shall be considered by the Planning Commission at the next monthly meeting which is held at least fourteen (14) days after the date on which the written review of the Building Official, or, as appropriate, the ARO, is issued.
6. The Planning Commission shall review the site plan pursuant to the Guidelines set forth in (D) of this Section.
7. The Planning Commission shall approve, disapprove, or approve with modifications and/or conditions, the site plan as submitted.
8. The Planning Commission shall issue its written decision to the applicant, and to the Building Official, or, as appropriate, the ARO, within seven (7) days of its meeting.
9. If the Planning Commission approves the application as submitted, the applicant shall prepare and submit to the Building Official, or, as appropriate, the ARO, all construction drawings and specifications required to

obtain the necessary zoning, engineering, and building permits.

10. If the Planning Commission approves the application with conditions and/or modifications, the applicant must submit the additional necessary drawings, information, or materials to the Building Official, or, as appropriate, the ARO, who shall act on such submission according to the procedure set forth for acting on initial applications.
11. If the Planning Commission rejects an application in its entirety, no further action is required by the Building Official, or, as appropriate, the ARO, or by the Planning Commission. The applicant may submit further additional applications pursuant to (B) and (D) of this Section.
12. The failure of the Planning Commission to act within the specified periods shall entitle the applicant to submit the application directly to the Zoning Board of Appeals. The Zoning Board of Appeals may refer applications back to the Planning Commission for further review.



## **CHAPTER 22 ENFORCEMENT**

### **22.0 Enforcement by Village Building Official or ARO**

The Building Official, or, in any AROD, the ARO, is empowered to administer and enforce this Code in accordance with the provisions of this Chapter. All departments, officials, and public employees of the Village vested with the duty and authority to issue permits or licenses, shall conform to the provisions of this Chapter.

### **22.1 Revocation of Zoning Certificate or Building Permit**

Any Zoning Certificate or Building Permit issued upon a false statement is null and void. The Zoning Certificate or Building Permit shall be revoked by notice in writing to be delivered to the holder of the void Certificate upon the premises concerned, or in some conspicuous place upon the premises. Any person who shall proceed thereafter with such work or use without having obtained a new Zoning Certificate or Building Permit, in accordance with these regulations, shall be deemed guilty of a violation thereof.

### **22.2 Schedule of Fees**

Any and all fees for Building Permits, Zoning Certificates, amendments, appeals, variances, Conditional Use Permits, plan approvals, and any other procedure, requirement, or service pertaining to the administration and enforcement of this Code shall be set by the Village Council. Until all appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.





**CHAPTER 23**  
**VIOLATION, REMEDIES AND FEES**

**23.0 Notice of Violation**

- A. If the Building Official determines that there is a violation of any provision of this Zoning Code, and if, in his or her discretion, he or she decides to pursue a remedy for such a violation, the Building Official shall issue a notice of the same. Such notice shall:
1. Be in writing;
  2. Identify the violation;
  3. Include a statement of the reason or reasons why it is being issued and refer to the section of this Zoning Code being violated; and
  4. State the time by which the violation shall be corrected.
- B. Service of notice of the violation shall be as follows:
1. By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of sixteen (16) years or older; or
  2. By Certified Mail, and first class mail simultaneously, addressed to the person or persons responsible at a last known address. Service shall be deemed complete when the fact of the mailing is entered of record, provided that the First Class mail envelope is not returned by the Postal Authorities with an endorsement showing failure of delivery; or
  3. By posting a copy of the notice form in a conspicuous place on the premises found in violation.
- C. Notwithstanding any of the foregoing, if the Building Official or other appropriate Village official determines that exigent circumstances exist which would preclude the giving of notice of the violation before instituting suit or taking other remedial or corrective action, such notice need not be issued before instituting suit or taking any such action.

## 23.1 Remedies

The following remedies shall apply to violations of the Zoning Code:

### A. Prohibitions

1. No person, business or corporation shall fail or refuse to comply with an order issued by the Building Official, the ARO, the Zoning Board of Appeals, or the Planning Commission. Each day upon which such a violation occurs or continues is deemed a separate offense.
2. No person, business or corporation shall construct, modify, alter, use or occupy any building, structure, land, or other property in violation of the Zoning Code. A separate offense shall be deemed committed each day upon which a violation occurs or continues.

### B. Penalties

1. Whoever violates this Chapter is guilty of a minor misdemeanor, punishable by a maximum one hundred fifty dollar (\$150) fine and/or such other conditions imposed by a court of competent jurisdiction.
2. If within one year of being found guilty of a violation of this Zoning Code, the offender is found guilty of another violation of this Chapter, the offender is guilty of a misdemeanor of the third degree, punishable by a maximum fine of \$500, sixty (60) days in jail, and/or such other conditions imposed by a court of competent jurisdiction.

### C. Civil Remedies

If any building, structure, land, or other property is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or otherwise used in any fashion in violation of this Chapter or any amendment or supplement thereto, the Village Solicitor or other retained counsel, or any adjacent or neighboring property owner who would be specifically damaged by such violation, may, in addition to other remedies provided by law, institute appropriate action or proceedings for injunctive relief and/or damages. Such an action is permissive only, and is not required to be brought under any circumstance by the Village or any Village official or body. When not precluded by exigent circumstances, which shall be determined in the Village's sole discretion, the Village shall provide the notice set forth above before instituting suit on its own behalf.

### D. Exigent Circumstances/Protection of Public

If, in the opinion of the Building Official, any condition upon any building,

structure, land, or other property in the Village violates the Zoning Code, is unsafe, unsanitary, or substandard, and presents an immediate risk of harm to the public, the Building Official may undertake or order such action which, in his sole discretion, is required to protect the public from such harmful condition. Within forty eight hours of the Building Official's decision, or as soon thereafter as practicable, the Building Official shall cause notice to be issued to the property owner or person responsible for the property. Such notice shall include a description of the work performed or action taken, and may include: 1) a further order to pay for the costs of such action or work; and/or 2) a notice to take further action to cure any violation of the Zoning Code and/or to cure any harmful condition still threatened or remaining. Upon the failure to pay the costs of the action or work described above, the Village may place a lien for such costs on the tax duplicate of the property in accordance with law.

## **23.2 Fees**

The fees for all applicant costs incurred in this Chapter shall be established by Village Council. No plans or documents shall be accepted for filing and processing unless and until the appropriate filing fee is first paid to the Village.

The applicant shall be responsible for the expenses incurred by the Village in reviewing the plans and documents or any modifications to the plan. Such expenses may include items such as the cost of professional services including expenses and legal fees in connection with reviewing the plan, prepared reports, the publication and mailing of public notice in connection therewith, and any other reasonable expenses directly attributable thereon. The Village need not act on any request by an applicant until all required fees and costs have been paid in full.

At the time of submitting a site plan to the Building Official or ARO for consideration, the applicant shall pay the processing fee as established by schedule.



**CHAPTER 24**  
**ZONING BOARD OF APPEALS; APPEAL AND VARIANCE REQUEST**

**24.0 Purpose**

This chapter sets forth the powers and duties of the Zoning Board of Appeals with respect to the administration of the provisions of this Code, sets forth the procedures by which an appeal or a variance request may be made to the Zoning Board of Appeals, and distinguishes those powers from those of the Planning Commission.

**24.1 Zoning Board of Appeals**

A. Membership

The Zoning Board of Appeals, hereinafter called the Board, shall be appointed by the Village Council and shall consist of five (5) members who are residents of the incorporated area of the Village. The Mayor shall preside as chairman of the Board, and at least three (3) members of the Board shall not be members of the Planning Commission or Council. The term of the appointed members shall be two (2) years.

B. Actions by the Board

Except as otherwise set forth in this Code, the Board shall act by resolution in which at least three (3) members shall concur.

C. Jurisdiction

1. Administrative Appeals

The Board shall have jurisdiction to hear and decide appeals where it is alleged there is an error in any interpretation, judgment, decision or determination made by the Building Official or the ARO in the administration and enforcement of these regulations. The Board shall also have jurisdiction to hear and decide appeals pertaining to the Zoning Code not otherwise assigned to the Planning Commission or any other official or body of the Village. The Board's jurisdiction shall further extend to appeals regarding the denial of a conditional use permit by the Planning Commission, whether in or out of an AROD.

The Board may, in conformity with the provisions of the Zoning Code, reverse or affirm, wholly or partly, or modify the order, requirements, decision, ruling or determination appealed from and in connection therewith, may exercise the discretion and power conferred upon it by the Zoning Code and otherwise by law.

## 2. Planning Commission Site Plan Review Decisions

The Board shall have jurisdiction to hear appeals taken by any affected person from a decision of the Planning Commission regarding approval of a site plan review.

The Board may uphold the decision of the Planning Commission, overturn the decision of the Planning Commission or modify the decision of the Planning Commission. An affirmative vote of three-fourths (3/4) of the Board is required to overturn or modify the recommendation of the Planning Commission.

## 3. Variance Requests

The Zoning Board of Appeals shall have the power to authorize upon request in specific cases, filed as hereinafter provided, such variances from the dimensional terms, provisions or requirements of this Zoning Code as will not be contrary to the public interest, provided, however, that such variances shall be granted only in such cases where, owing to special and unusual conditions pertaining to a specific piece of property as described below, the literal enforcement of the provisions or requirements of this Zoning Code would result in practical difficulty., Variances shall not be granted for uses not permitted in the Zoning District applicable to the property.

### a. Conditions Prevailing.

Where there are exceptional or extraordinary circumstances or conditions, and the literal enforcement of the requirements of this Zoning Code would cause practical difficulty which is unnecessary to carry out the spirit and purpose of this chapter, the Zoning Board of Appeals shall have the power to relieve such difficulty. In authorizing a variance, the Zoning Board of Appeals may attach thereto such conditions regarding the location, character, and other features of the proposed structure or the use of it as it may deem necessary in the interest of the furtherance of the purpose of the chapter and in the public interest. In authorizing a variance, with attached conditions, the Zoning Board of Appeals shall require such evidence and guarantee or bond as it may deem to be necessary in order to enforce compliance with the conditions attached.

### b. Findings of the Zoning Board of Appeals.

The Board shall review each application for a variance to determine if it complies with the purpose and intent of this Code and evidence demonstrates that the literal enforcement of this Code will result in

practical difficulty. The factors to be considered and weighted in determining whether a property owner seeking a variance has encountered practical difficulty in the use of his property, include, but are not limited to:

- i. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- ii. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the property;
- iii. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- iv. Whether the variance would adversely affect the delivery of governmental services, such as water, sewer, and garbage collection;
- v. Whether the property owner purchased the property with knowledge of the zoning restrictions applicable to the property;
- vi. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- vii. Whether the spirit and intent behind the zoning regulation would be observed and substantial justice done by granting the variance;
- viii. Whether special conditions and circumstances exist which are peculiar to the property or structure involved and which are not applicable generally to other lands or structures in the same district;
- ix. Whether special conditions or circumstances exist as a result of the owner's actions; and
- x. Whether granting the variance requested will provide the applicant with a special privilege that is denied to other properties or structures in the same district.

c. To the extent any of the foregoing standards for deciding whether to grant a variance are modified, supplemented, prohibited, or otherwise altered by law, the Board may consider the request for variance according to the standards set forth by law.

#### D. Notice of Hearings

Absent exigent circumstances found by the Board, and except as modified below, notice of hearings shall be given in writing to each appellant or party requesting a variance and to each abutting property owner at least fifteen (15) days prior to the hearing. Notices should include an invitation to submit appropriate materials to the Board at or before the hearing (i.e., needed documentation, witnesses, contractors, etc.). All hearings are to be posted on all public notice boards and at the Municipal Building at least forty eight (48) hours prior to the hearing except where a different time period is provided by law.

When a property owner appeals for a variance from the provisions of this Zoning Code pertaining to an AROD, notice shall be sent to all property owners within the District, at the property owner's expense, at least fifteen (15) days prior to the hearing.

E. Hearings and Records Open to Public

Except to the extent otherwise authorized by law, hearings of the Board shall be public. The Board may go into executive session for discussion, but not for a vote on any matter before it. Records and minutes of all official acts of the Board shall be filed with the Clerk-Treasurer's office within ten (10) days of each Board meeting or hearing. The records and minutes are public records and are open to public viewing within the guidelines set forth by law.

F. Rules of Procedure

The Board shall adopt, and make available to the public, rules of procedure which shall govern its hearings and actions, or, otherwise, follow a procedure which affords each side a fair opportunity to be heard in accordance with due process.

**24.2 Filing Appeal or Variance Request**

A. Time

An appeal or a request for a variance shall be filed with the Board within thirty (30) calendar days, excepting Saturday, Sunday, or a legal holiday, from the date the ruling or decision appealed from is issued by the applicable official or body. A ruling or decision is deemed issued when it is sent for delivery by hand, by certified mail, by regular mail, by fax, or by e-mail to the applicant or his authorized representative. The failure to timely file an appeal or request for variance shall deprive the appropriate body of jurisdiction to hear the appeal or the request absent proof brought by the applicant that the ruling or decision did not reach the correct address within the time period allowed for the appeal or request, or for other good cause shown.

B. Information to be provided to Board

An application for an appeal or a variance shall contain the following information:

1. Name, address and telephone number of the applicant;
2. A brief narrative description of the existing use of the property;



3. Statement of location of the property (subdivision, township, range, section number, lot number);
4. A statement indicating the zoning of the property;
5. A brief narrative description of the proposed appeal or variance being requested, citing the section of the Zoning Code from which the appeal or variance is being requested;
6. A plan, drawn at an appropriate scale, showing the location of the property, indicating all existing and proposed structures and lot lines, locations of the nearest public rights-of-way, and location of all access points to the site, existing or proposed, locations of any easements existing or proposed, locations of any existing or proposed parking areas and driveways, showing intent to comply with all parking requirements specified by these regulations;
7. Names and mailing addresses of owners of property adjacent to the subject property as recorded by the Hamilton County Auditor's Office;
8. Such other information as may be required by the Zoning Board of Appeals.

#### C. Fees

Reference the current fee schedule adopted by Council.

#### D. Penalty

In addition to all other applicable penalties set forth by this Zoning Code or otherwise by law which may be invoked by the appropriate official or body, the Board may invoke a penalty fee of up to two (2) times the application fee when a project is commenced prior to obtaining final approval from the Village.



# **APPENDIX 1**

## **WOOSTER PIKE ARCHITECTURAL REVIEW OVERLAY DISTRICT DESIGN GUIDELINES**

### GENERAL GUIDELINES

- Buildings shall be used to define the corridor.
- Consistent design and materials shall be utilized to create an underlying visual linkage for the corridor.
- Uniform setbacks shall be required in order to create a sense of enclosure and reduce the appearance of Wooster Pike.

### BUILDING AND SITE LAYOUT

- Large, exposed blank walls shall be avoided.
- All visible sides of a building shall be finished and treated similarly to the front
- Building entrances shall be well defined and accessible to pedestrians and the handicapped.
- Building design shall maintain and reinforce the local character rather than a corporate image.

### FENCING AND SCREENING

- Where commercial uses back onto residential areas, they shall be properly screened using fences or landscaping.
- Fencing shall be solidly constructed, easy to maintain and compatible with adjacent buildings in terms of color and materials.
- Fence height, locations, design and materials shall comply with the village's fence ordinance.
- The finishes on retaining walls shall be compatible with those of nearby buildings.
- Service areas shall be incorporated into the building design or screened from view through fencing or landscaping.

### PARKING LOT DESIGN

- To make the corridor more pedestrian friendly, off-street parking shall be placed at the sides or rear of the building.
- Loading and delivery areas shall be confined to the rear of buildings.
- Minimum landscaping requirements shall be established for parking on new development.
- Landscaping shall be employed to define access points, provide human scale and create a feeling of enclosure.
- Linking parking areas shall be encouraged to reduce the number of turns onto and off of Wooster Pike.
- Parking layouts shall facilitate the safe movement of pedestrians by providing walkways separate from automobile traffic. Pedestrian routes shall be parallel to the traffic aisles and cross drive aisles at the fewest possible

points.

- Handicapped parking, at convenient locations, shall be provided.
- Parking for existing buildings shall be combined whenever possible. This will make parking more accessible and reduce the need for multiple curb cuts along Wooster Pike.
- The visual impact of parking areas, from the street, shall be softened through the use of planting.

#### LANDSCAPING

- No business should have a completely paved area between it and the street.
- The areas between the business and the street that are not paved, shall be landscaped.
- Safety factors, such as clear visibility of entranceway locations and traffic sight-lines shall be respected when placing plant materials.
- Areas between buildings and sidewalks shall be landscaped and sidewalks or pathways should connect the street sidewalk to the building.

#### SIGNAGE

- Signs shall be placed on buildings .
- Large billboards, freestanding or on buildings, shall be removed.
- Tall pole signs shall be removed.
- The size, height, type and location of all commercial signs shall be comprehensively regulated.
- The number of signs per property shall be limited to those absolutely necessary.
- Signage shall be consolidated.
- Freestanding signs shall be installed on a landscaped or decorative base.
- Portable signs shall be allowed in very special circumstances.
- To reduce visual clutter along the corridor signage shall be made consistent.
- Signs shall complement the architectural design and materials of the buildings.
- Signs and other street furniture shall be integrated into the landscaping.

## **APPENDIX 2**

### **RED BANK ROAD CORRIDOR ARCHITECTURAL REVIEW OVERLAY DISTRICT DESIGN GUIDELINES**

#### **GENERAL GUIDELINES**

- A cohesive, campus style design shall be created within this overlay district
- Consistent design and materials shall be utilized to create an underlying visual appearance, creating a sense of place.
- Access to the overlay district shall be from a limited number of points on Red Bank Road
- Parcels within the overlay district shall be accessed by means of an internal access roadway.

#### **BUILDING AND SITE LAYOUT**

- Large, exposed blank walls shall be prohibited where viewed from the public rights-of-way.
- All visible sides of a building shall be finished and treated similarly to the front.
- Building entrances shall be well defined and accessible to pedestrians and the handicapped.
- Building design shall maintain and reinforce the local character rather than a corporate image.

#### **FENCING AND SCREENING**

- Fencing shall not be located along Red Bank Road.
- Where commercial uses back onto residential areas, they shall be properly screened using fences or landscaping.
- Fencing shall be solidly constructed, easy to maintain and compatible with adjacent buildings in terms of color and materials.
- Fence height, locations, design and materials shall comply with the Village's fence ordinance.
- Chain link fencing shall not be used.
- The finishes on retaining walls shall be compatible with those on nearby buildings.
- Service areas shall be incorporated in to the building design or screened from view through fencing or landscaping.

#### **PARKING LOT DESIGN**

- To make the overlay district more visually appealing, off-street parking shall be located at the sides or rear of the building.
- Loading and delivery areas shall be confined to the rear of the buildings.
- Minimum landscaping requirements shall be established for parking on new development.
- Landscaping shall be employed to define vehicular pedestrian access points.
- Linking parking areas shall be required to reduce the number of curb cuts on the internal access roadways within the overlay district.
- Handicapped parking shall be provided at convenient locations

## SIGNAGE

- Signs shall be of wall mounted or ground mounted design.
- Ground mounted signs shall not exceed 5 feet in height.
- The landscaped area at the base of ground mounted shall equal the area of the total face area of the sign.