PHILLIPSBURG, OHIO
ZONING ORDINANCE

ORDINANCE #__744_

Adopted: _____, 2007
Effective Date: _____, 2007

Prepared By: Miami Valley Regional Planning Commission and Taft Stettinius & Hollister LLP

TABLE OF CONTENTS

Page

ARTICLE 1 TITLE AND EFFECTIVE DATE 1

ARTICLE 2 INTENT AND PURPOSE 2

ARTICLE 3 LEGAL PROVISIONS 3
3.01. Validity and Separability 3
3.02. Interpretation and Conflict 3
3.03. Repeal of Conflicting Ordinances 3
3.04. Area of Jurisdiction 3

ARTICLE 4 DEFINITIONS 4

ARTICLE 5 ZONING DISTRICTS AND MAP 30
5.01. Establishment of Zoning Districts 30
5.02. Official Zoning District Map 30
5.03. Uncertainty of Boundary Location 30
5.04. Zoning Upon Annexation 31

ARTICLE 6 DISTRICT REGULATIONS 32
6.01. R-1 Single-Family Residential District 32
6.02. R-2 Multi-Family Residential District 34
6.03. B-1 Central Business District 37
6.04. B-2 Highway Business District 40
6.05. OS-1 Office/Service District 43
6.06. C-1 Commercial District 44
6.07. Principal Permitted Uses 46
6.08. Accessory Uses 47
6.09. Height Standard 47
6.10. Area Standard 47

ARTICLE 7 PLANNED DEVELOPMENT PROVISIONS 48
7.01. Purpose 48
7.02. Types Of Planned Development 48
7.03. General Standards For Planned Developments 48
7.04. Procedure For Approval 49
7.05. Changes In The Planned Development 52
7.06. Schedule Of Construction 52
7.07. Effect Of Denial Of A Planned Development 53
7.08. Revocation 53
7.09. Penalty 53
7.10. PR Planned Residential District. 53
7.11. PMH Planned Manufactured Home Residential District 56

7.12. PRVP Planned Recreational Vehicle Park District 59
7.13. PC Planned Commercial District 66
7.14. Planned Industrial District 67
7.15. Submission Requirements for Planned Development Proposals. 68

ARTICLE 8 SUPPLEMENTARY REGULATIONS 73
8.01. General Provisions 73
8.02. Required Conformance 73
8.03. Reduction of Area or Space 73
8.04. Uses Not Specifically Mentioned Within Districts 73
8.05. Public Street Frontage Required 74
8.06. Principal Buildings Per Lot 74
8.07. Lots Adjoining Alleys 74
8.08. Front Yards Required For Corner Lots and Through Lots 74
8.09. Architectural Projections Into Required Yards 74
8.10. Exceptions To Height Limitations For Non-Habitable Structures 75
8.11. Accessory Buildings In Residential Districts 75
8.12. Private Accessory Swimming Pools 76
8.13. Accessory Fences, Walls and Plantings 78
8.14. Churches 78
8.15. Trailers, Trucks, Recreational Vehicles, Boats, Farm Or Construction Equipment. 79
8.16. Game Arcades 85
8.17. Home Occupations 85
8.18. Junk Vehicles 89
8.19. Child Care Nurseries 90
8.20. Required Screening 90
8.21. Excavations And Dumps. 92
8.22. Recreational Fires. 93
8.23. Garage Sales. 93

ARTICLE 9 OFF-STREET PARKING, LOADING, AND DRIVE-THROUGH REGULATIONS 95
9.01. Off-Street Parking 95
9.02. Required Parking, Loading, and Drive-Through Plan 95
9.03. Off-Street Parking Area Standards 95
9.04. Parking Space Requirements 100
9.05. Off-Street Loading Development Standards 102
9.06. Loading Space Requirements 103
9.07. Drive-Through Waiting Since Requirements 104
9.08. Multiple Vehicle Parking Restrictions. 105
9.09. Paving Requirement 105

ARTICLE 10 SIGNS 106
10.01. Intent and Purpose 106
10.02. Zoning Permit Required 106

10.03. Exempted Signs 106
10.04. General Location and Safety Requirements 106
10.05. Authorization of Property Owner Required 107
10.06. Requirements For Specific Types of Signs. 107
10.07. Billboards 108
10.08. Identification Signs Within Non-Residential Districts 108
10.09. Identification Signs Within Residential Districts 110

ARTICLE 11 RADIO, TELEVISION AND TELEPHONE TOWERS AND ANTENNAS 111
11.01. Definitions 111
11.02. Conditions 112
11.03. Radio And Television Towers As Conditional Use 113
11.04. Radio And Television Towers As Accessory Use 113
11.05. Telephone Towers As Conditional 114
11.06. Antennas And Equipment On Existing Structures 115

ARTICLE 12 NONCONFORMING LOTS, USES, STRUCTURES AND SIGNS 117
12.01. Intent 117
12.02. Enlargement, Expansion Or Extension 117
12.03. Single Nonconforming Lots 117
12.04. Nonconforming Lots of Record in Combination 118
12.05. Nonconforming Uses of Land. 118
12.06. Nonconforming Structures Other Than Signs. 120
12.07. Nonconforming Signs. 120
12.08. Repairs And Maintenance 121
12.09. Avoidance Of Undue Hardships. 121
12.10. Destroyed Structure 122

ARTICLE 13 123
13.01. Carnivals and Festivals. 123
13.02. Trash Container Enclosures. 123
13.03. Agricultural Animals. 124

ARTICLE 14 FLOOD DAMAGE PREVENTION 125
14.01. Statutory Authorization 125
14.02. Findings Of Fact. 125
14.03. Statement Of Purpose 125
14.04. Methods Of Reducing Flood Losses 126
14.05. Definitions 126
14.06. Applicable Lands 133
14.07. Basis For Establishing The Areas Of Special Flood Hazard 134
14.08. Compliance 134
14.09. Abrogation And Greater Restrictions 134
14.10. Interpretation 134
14.11. Warning And Disclaimer Of Liability 134

14.12. Violations And Penalties 135
14.13. Floodplain Development Permits 135
14.14. Exemption From Filing A Development Permit 137
14.15. Designation Of Flood Damage Prevention Administrator 137
14.16. Administrator Duties And Responsibilities 137
14.17. Appeal Board; Variance Procedure 140
14.18. Conditions For Variances 141
14.19. Subdivision And Large Developments. 142
14.20. Standards For Flood Hazard Reduction. 143
14.21. Floodways 147
14.22. Assurance Of Flood Carrying Capacity 148
14.23. Map Maintenance Activities 148
14.24. Data Use And Flood Map Interpretation 150
14.25. Substantial Damage Determinations 151
14.26. Use Regulations 151
14.27. Water And Wastewater Systems 152

ARTICLE 15 ADMINISTRATIVE BODIES AND THEIR DUTIES 153
15.01. Village Zoning Inspector 153
15.02. Village Planning Commission 153
15.03. Board of Zoning Appeals 153
15.04. Village Council and Mayor 155

ARTICLE 16 ADMINISTRATION PROCEDURES 156
16.01. Zoning Permit Required 156
16.02. Conditional Use Permits 158
16.03. Appeals and Variances 160
16.04. Building Permit 162
16.05. Certificate of Zoning Compliance 162

ARTICLE 17 AMENDMENT 164
17.01. Application for Amendments 164
17.02. Referral to Village Plannin2 commission Required 164
17.03. Recommendation of Village Planning Commission 165
17.04. Public Hearing by Village Council 165
17.05. Action by Village Council 165
17.06. Amendment Limitation 165

ARTICLE 18 PENALTIES 166
18.01. Violation is Nuisance Per Se: Abatement 166
18.02. Remedies 166
18.03. Other Action 166
18.04. Affected Parties 166
18.05. Inspections 166
18.06. Notice of Violation. 166
18.07. Penalties. 168

ARTICLE 1 TITLE AND EFFECTIVE DATE

This ordinance provides a comprehensive revision to Ordinance #509, the Zoning Ordinance of the Village of Phillipsburg, Ohio. It shall be known and cited as the "Zoning Ordinance of the Village of Phillipsburg" and will be referred to herein as "this zoning ordinance" or "this ordinance".

EFFECTIVE DATE.

Date of Public Hearing. April 7, 1994

Adoption by the Village Council. June 14, 1994

Effective Date. July 14, 1994

ARTICLE 2 INTENT AND PURPOSE

This zoning ordinance is based upon a plan and is hereby adopted pursuant to Article 713 of the Ohio Revised Code for the following purposes.

1. To promote the public health, safety, convenience, prosperity and general welfare of the present and future inhabitants of the Village of Phillipsburg;

2. To lessen the congestion along public streets;

3. To prevent undue concentration of population;

4. To advance social and economic stability;

5. To conserve and enhance property values within the Village of Phillipsburg by minimizing nuisances, and providing adequate light, air, and convenience of access to property;

6. To insure the compatibility of land uses which are either adjacent or in close proximity to each other; and

7. To facilitate adequate provision of public transportation, streets, highways, sewers, water mains, schools, recreation areas, and other public facilities.

The above-mentioned plan has been formulated with due consideration to the character of each zoning district and its peculiar suitability for particular uses, and to the general trend and character of building and population development within the Village of Phillipsburg.

ARTICLE 3 LEGAL PROVISIONS

3.01. **Validity and Separability**. Should any section, paragraph, clause, sentence, item, phrase, or provision of this zoning ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this zoning ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

3.02. **Interpretation and Conflict**. In their interpretation and application, the provisions of this zoning ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, and general welfare. Whenever the requirements of this zoning ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, resolutions, private deed restrictions, or private covenant, the most restrictive, or that imposing the higher standards shall govern.

3.03. **Repeal of Conflicting Ordinances**. All ordinances, or parts of ordinances in conflict with this zoning ordinance or inconsistent with the provisions of this zoning ordinance are hereby repealed and declared null and void and of no effect.

3.04. **Area of Jurisdiction**. The provisions of this zoning ordinance shall apply to all land within the incorporated area of the Village of Phillipsburg, Montgomery County, Ohio.

ARTICLE 4 DEFINITIONS

4.01. **Definitions**. For the purpose of this Zoning Code, certain terms or words used herein shall be interpreted as follows.

A. The following definitions shall apply unless the context clearly expresses or requires a different meaning.

B. The present tense includes the future tense, the singular number includes the plural and the plural includes the singular.

C. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.

4.02. **Adult Entertainment Facility**. Definitions contained in the code section dealing with adult entertainment facilities shall be applicable.

4.03. **Accessory Building**. "Accessory building" means a subordinate building located on the same lot occupied by the main building, the use of which is incidental to that of the main building or to the use of the land. A trailer shall not be considered an accessory building.

4.04. **Accessory Use Or Structure**. "Accessory use or structure" means a building or use which is subordinate to the principal use to that of the main building or use on the same lot.

4.05. **Adult Family Home**. A residence that provides accommodation to 3-5 unrelated adults and supervision and personal care service to at least three of those adults.

4.06. **Agriculture**

A. Agriculture is the use of land for agriculture purposes, including farming of crops, ranching, raising, breeding and caring for farm animals, horticulture, floriculture, viticulture, and the necessary accessory uses for packing, treating, or storing the produce; however, the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

B. "Industrial Agricultural" (also referred to as "Factory Farming") means the use of land for the confined or concentrated raising, breeding and caring for farm animals in excess of 250 animals and/or the placement on land of animal waste holding lagoons.

4.07. **Agricultural Services**. Agricultural Services shall mean any commercial activity that primarily serves the agricultural community. Agricultural Services shall include but shall not be limited to. tractor and farm

implement sales, grain elevators, and farming machinery and equipment repair.

4.08. **Alley**. An alley is a dedicated public right-of-way, other than a street that affords a secondary means of access to abutting property.

4.09. **Automobile Or Trailer Sales Area**. An automobile or trailer sales area is an open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition; and where no repair work is done.

4.10. **Automobile Service Station**. An automobile service station is a structure and surrounding land used for the storage and sale of petroleum fuel, primarily to passenger vehicles, and for accessory uses such as the sale and installation of lubricants, accessories or supplies; the incidental washing of motor vehicles and the performing of tune-ups, tire and brake changing and repair.

4.11. **Apartment**. "Apartment" means a room, or suite of two (2) or more rooms, which is designed or intended for occupancy by, or is occupied by, one (1) family doing its own cooking therein, or by one (1) person doing his or her own cooking therein.

4.12. **Apartment House**. "Apartment house" means any building used and/or arranged for occupancy as dwellings for three (3) or more families as separate housekeeping units.

4.13. **Bingo**. "Bingo" means an establishment whose principal use is the playing of bingo as licensed and defined by the State of Ohio.

4.14. **Automobile Wrecking**. Automobile wrecking is the dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, non-operating or wrecked vehicles or their parts.

4.15. **Automotive 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.

4.16. **Basement**. A basement is that portion of a building located partly underground but having more than one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground.

4.17. **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.

4.18. **Block**. A 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.

4.19. **Board**. The Board shall mean the Board of Zoning Appeals of the Village.

4.20. **Building**. A building is any covered structure built for the support, shelter or enclosure of persons, animals, chattels or moveable property of any kind; and which is permanently affixed to the Bound by means of a footer and foundation as defined in the Montgomery County Building Code.

4.21. **Building Height**. The building height is the vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof; or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

4.22. **Building Line**. The building line is a line parallel to the street right-of-way line at any story level of a building and representing the distance which all or any part of the building is to be set back from said right-of-way.

4.23. **Buildable Lot Area**. The buildable lot area is the portion of a lot remaining after required yards have been provided.

4.24. **Bulletin Board**. "Bulletin board" means a structure containing a surface upon which is displayed the name of a religious institution, school or library, auditorium, stadium, athletic field or area of similar use for announcement of services or activities to be held therein.

4.25. **Carport**. "Carport" means a roofed shelter for an automobile or similar motor vehicle which is open on at least two (2) sides from not more than three (3) feet above grade to the elevation of the eaves and is located in the side or rear yard. This shelter shall be attached to the dwelling and shall not project beyond the building. line of the dwelling except on the side of the dwelling to which it is attached

4.26. **Auto Wrecking Yard**. "Auto wrecking yard" means any lot or parcel of ground where two (2) or more vehicles, not in running condition, are stored in the open; or any building or structure used principally for wrecking/dismantling of obsolete or wrecked vehicles, or their parts.

4.27. **Banquet Facility**. "Banquet facility" means a building or portion thereof for rent by the public which has a principal intended use of holding meetings, receptions, parties, banquets, dinners, lunches, breakfasts, and other gatherings of people, whether food is prepared and sold on site for profit or not.

4.28. **Carnival**. "Carnival" means an amusement show, usually consisting of a company of performers, animals or other amusements, and usually

traveling from place to place, and used for commercial purposes, or a local function usually operated by a non-profit organization.

4.29. **Camping And Recreational Equipment**. For the purpose of this Code, camping and recreational equipment shall include the following.

A. Boat and Boat Trailer. Boat and boat trailer shall include boats, floats and rafts plus the normal equipment to transport the same on the highway.

B. Folding Tent Trailer. A canvas folding structure mounted on wheels and designed for travel and vacation uses.

C. Motorized Home. A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

D. Pickup Camper. A structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use for travel, recreational, or vacation uses..

E. Travel Trailer. A vehicular, portable structure built on a chassis, designed to he used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.

F. Utility Trailer. Any single or dual axle non-motorized vehicle used for transportation of equipment, vehicles, livestock and any other materials.

4.30. **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.

4.31. **Clinic**. A clinic shall mean a place used for the human 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.

4.32. **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.

4.33. **Commission**. The Commission shall mean the Village Planning Commission.

4.34. **Communication Transmission Structure**. A communication transmission structure is a tower, pole or other 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.

4.35. **Community Social Service Facilities**. A community social service facility is a facility which provides resident services to a group of individuals of whom one or more are unrelated. These individuals may be mentally retarded, handicapped, aged or disabled, are undergoing rehabilitation, and are provided services to meet their needs. This category includes uses licensed, supervised, or under contract by any federal, state, county, or other political subdivision. "Community Social Services Facilities" (residential homes) includes, but is not limited to, the following listed categories.

A. Foster Homes for Children. Residential home for mentally retarded or mentally ill children or adolescents under the age of 18 requiring protective supervision in a home setting and for children or adolescents who for various reasons cannot reside with natural family.

B. Foster Homes for Adults. Residential homes for mentally retarded or mentally ill adults over the age of 18 requiring protective supervision in a home setting. Residential homes for the aged would also be included under this category.

C. Social Care Homes. Residential homes for children or adolescents who lack social maturity or have emotional problems but who have not been judged delinquent. Residency may be permanent or transient.

D. Intermediate Care Homes. Residential homes for children or adolescents who have been so judged delinquent and have been assigned by a court to a residential home in lieu of placement in a correctional institution.

E. HalfWay Houses. Residential homes for adolescents or adults who have been institutionalized and released or who have had alcohol or drug problems which make operation in society difficult and who require the protection of a group setting.

4.36. **Church Or Church Grounds**. "Church" or "church grounds" means buildings used for public worship, and the ground attached to them necessary far the proper occupancy, use and enjoyment by a fellowship of believers, congregation, society, corporation, convention or association

that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

4.37. **Comprehensive Plan**. A comprehensive plan is a plan, or any portion thereof, adopted by the Planning Commission and the Village Council showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, agricultural land, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the Village.

4.38. **Day Care**. Day care shall mean a building or structure where care, protection and supervision are provided on a regular schedule, for a fee, at least twice a week, to at least five persons at one time, including the family members of the adult provider.

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

4.40. **District**. A "district" is a portion of the unincorporated territory of the Village within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Zoning Code.

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

4.42. **Day Spa**. "Day spa" means a personal service commercial establishment, which offers patrons multiple services such as personal hygiene, grooming, relaxation therapy, hydrotherapy, and massage therapy, and which may offer incidental light nourishment or refreshment for patrons.

4.43. **Deck**. "Deck" means an open-sided, above ground level improvement of the surface of a lot without roof which covers the vegetation and the ground with concrete, wood, stone, gravel or any other nonliving building material. In other words, a deck is a raised patio.

4.44. **Dwelling**. A "dwelling" is any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more families, but not including a tent, cabin, trailer or trailer coach, boarding or rooming house, hotel, or mobile home.

4.45. **Dwelling, Multi-Family**. A multi-family dwelling is a building or portion thereof designed for or used by three or more families or housekeeping units, living independently of each other, with cooking and sanitary facilities in each dwelling unit.

4.46. **Dwelling, Secondary**. A secondary dwelling shall mean the addition of a second independent dwelling, attached to the primary single family dwelling, housing a relative related by blood or marriage on the same lot.

4.47. **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.

4.48. **Dwelling, Two-Family**. A two-family dwelling is a building designed for or used exclusively by two families or housekeeping units, living independently of each other, with cooking and sanitary facilities in each dwelling unit.

4.49. **Dwelling, Zero Lot Line**. A zero lot line dwelling shall mean that the dwelling is located on the lot in such a way that one or more of the dwellings sides rests directly on a lot line.

4.50. **Dwelling Units**. Dwelling units shall mean one room, or a suite of two (2) or more rooms designed for or used by one family for living and sleeping purposes and which includes permanently installed cooking and lawfully required sanitary facilities.

4.51. **Educational Institution**. An educational institution is a facility that provides a curriculum of elementary, secondary or collegiate level academic instruction, including kindergartens, elementary schools, junior high schools, high schools, technical and collegiate level courses.

4.52. **Elderly Housing**. Elderly housing shall mean a building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 55 years of age and older and the dwelling units are self-contained and physically accessible to elderly citizens. Elderly housing shall not include a development containing convalescent or nursing facilities.

4.53. **Enclosed Patio**. "Enclosed patio" means an enclosed area immediately adjacent and connected to a structure which is not constructed nor intended as livable area. Such structures may be enclosed by screens or windows which shall compose at least fifty percent (50%) of any outside wall.

4.54. **Entertainment Establishment**. "Entertainment establishment" means a business or area within a business whose principal use is for the entertainment amusement of its patrons. This entertainment may be by

electronic or mechanical equipment, a person or group of persons and may be either participating or nonparticipating. This includes but is not limited to game rooms or amusement arcades, and bowling establishments, and those bars, taverns, restaurants and theaters which have a stage or area for live entertainment. Sexually oriented businesses as defined in Section 1123.951 are specifically excluded from this definition.

4.55. **Essential Service**. Essential services means the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement by public utilities, county, or other governmental agencies of underground or overhead gas, electrical, steam or water generation, transmission or distribution systems; including buildings, structures, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police can boxes, traffic signals, hydrants, and other similar equipment or accessories and the use of land in connection therewith, for the furnishing of adequate service by such public utilities, county, or other governmental agencies or for the public health, safety and general welfare, but excluding telecommunications towers and radio towers.

4.56. **Exterior Property Maintenance Code Appeals Board**. The Exterior Property Maintenance Code Appeals Board shall be the Board of Zoning Appeals.

4.57. **Factory Farming**. See, Agriculture, Industrial.

4.58. **Family**. Family shall mean one or more individuals related by blood, marriage, or adoption, or not more than five individuals who are not so related, living together as a single housekeeping unit in a dwelling, and maintaining and using the same and certain other housekeeping facilities in common.

4.59. **Fence**. A fence shall mean an artificial barrier or divider constructed to prevent escape or intrusion, to mark a boundary, or to enclose an area.

4.60. **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.

4.61. **Flood**. A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.

4.62. **Flood, Regional**. A flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular stream. The regional flood

generally has a frequency of approximately 100 years as is determined by an analysis of floods in a particular stream and other streams in the same general region.

4.63. **Flood, Frequency**. The average frequency statistically determined, for which it is expected that a specific flood level or discharge may be equaled or exceeded.

4.64. **Flood Protection Elevation**. The elevation to which uses regulated by this Code are required to be elevated or flood proofed.

4.65. **Festival**. "Festival" means a civic, fund-raising or promotional activity sponsored by a not-for-profit or non-profit organization including a church, school, civic, service organization or merchant association.

4.66. **Game Room Or Amusement Arcade**. "Game room or amusement arcade" means an entertainment establishment having three (3) or more mechanically or electrically operated amusement devices, or having fewer than three (3) such devices which provide the main or primary source of income for the proprietor thereof.

4.67. **Floodplain, Regional**. The area inundated by the regional flood (100 Year Frequency Flood). This is the floodplain area which shall be regulated by the standards and criteria in this Code.

4.68. **Flood Way**. The channel of the watercourse and those portions of the adjoining floodplains which are reasonable, required to carry and discharge the regional flood.

4.69. **Floodway Fringe**. That portion of the regional floodplain located outside of the floodway.

4.70. **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.

4.71. **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.

4.72. **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.

4.73. **Garage, Private**. A private garage shall mean a detached accessory building or a portion of the principal building used for the storage of automobiles or trailers by only the family resident on the premises. A carport or carp arch shall be construed to be a private garage.

4.74. **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.

4.75. **Grade**. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

4.76. **Greenbelt**. "Greenbelt" means a strip of land parallel to and extending inwardly from the lot lines or right-of-way lines.

4.77. **Gross Vehicle Weight**. "Gross vehicle weight" shall mean the weight of the vehicle plus its manufacturer's rated load capacity. For example. One half-ton rating shall be one thousand (1,000) lbs. Three-quarter ton rating shall be fifteen hundred (1,500) lbs. One ton rating shall be two thousand (2,000) lbs.

4.78. **Hard Surface Driveway**. "Hard surface driveway" means a driveway in an R-1 or R-2 District which shall consist of cement binder pavement or asphalt paving.

4.79. **Hard Surface Road, Lane**. "Hard surface road, lane" means a hard surface road or lane in an R-1 and R-2 District which shall consist of cement binder pavement, asphalt paving or compacted stone being a minimum of six (6) inches of number two (2) aggregate, topped with two (2) inches of B-19 or 304 gravel.

4.80. **Home Occupation**. A home occupation is any occupation, business, profession, activity or use which is 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.

4.81. **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.

4.82. **Hotel**. A hotel is a facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

4.83. **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.

4.84. **Industrialized Housing Units**. Industrialized housing units shall mean a factory-fabricated, transportable building consisting of one or more units

designed to be assembled into a permanent structure at a building site on a permanent foundation, used for residential, office, business or industrial purposes, and which meets the standards and specifications for Industrial Units of Closed Construction, as provided for by the Ohio Building Code, authorized by the Board of Building Standards, State of Ohio. "Manufactured Housing Unit" shall not be included in this definition.

4.85. **Junk**. Junk shall mean old or scrap copper, brass, rope, rags, batteries, paper, rubber; junked, dismantled, or wrecked motor vehicles or parts thereof; iron, steel, and other old or scrap ferrous or nonferrous materials which are not held for sale or remelting purposes by an establishment having facilities for processing such materials.

4.86. **Junk Yard**. A junk yard shall mean an establishment or place of business (other than an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes), which is maintained or operated for the purpose of storing, keeping, buying, or selling junk; or for the maintenance or operation of an automobile graveyard, except an establishment or place where automobiles, wrecked or otherwise, are held or impounded for a period not to exceed ninety (90) days exclusively for storage, repair, or resale without alteration.

4.87. **Kennel**. A kennel is any lot or premises on which domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, sold, or which offers provisions for minor medical treatment.

4.88. **Landscaping**. Landscaping shall mean the improvement of open areas by the planting and maintenance of trees, bushes, flower gardens, grass, or other vegetation.

4.89. **Loading Space**. A loading space means an off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials; and which abuts upon a street, alley or other appropriate means of access.

4.90. **Lot**. A lot is a piece or parcel of land occupied or intended to be occupied by a principal building of 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 chapter, and having frontage on a public street.

4.91. **Lot, Area**. Lot area is the computed horizontal area contained within the lot lines.

4.92. **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.

4.93. **Lot, Depth**. Lot depth is the average horizontal distance between the front and the rear lot lines.

4.94. **Lot, Frontage**. The lot frontage shall mean the distance between the side lot lines, measured by a line drawn parallel with the front lot line at a point of required minimum front yard depth.

4.95. **Lot, Interior**. The interior lot is a lot other than a corner lot and with frontage on one street.

4.96. **Lot, Through**. A through lot is a lot having a pair of opposite lot lines along two more or less parallel public streets. On a through lot, both street lines shall be deemed front lot lines.

4.97. **Lot, Coverage**. Lot coverage is that percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

4.98. **Lot Lines**. Lot lines are the property lines bounding the lot.

4.99. **Livable Area**. "Livable area" means that portion of a building occupied or constructed as a dwelling unit. Accessory buildings including storage sheds, garages, patios, enclosed patios and similar structures are not deemed to be livable area. Structures that are altered or otherwise converted to be occupied as dwelling units or as extensions thereto, shall be deemed livable area and shall conform to all yard and setback requirements set forth in the Zoning Ordinance and applicable construction standards.

4.100. **Lot Line, Front**. The front lot line shall mean a street right-of-way line forming the boundary of a lot. On a corner lot, the street right-of-way lines with the least amount of street frontage shall be the front lot line.

4.101. **Lot Line, Rear**. The rear lot line shall mean the lot line that is most distant from, and is, or is most nearly parallel to, the front lot line. If a rear lot line is less than fifteen (15) feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to the front lot line.

4.102. **Lot Line, Side**. A side lot line shall mean a lot line which is neither a front lot line nor a rear lot line. On a corner lot, the street right-of-way line with the greatest amount of street frontage shall be a side lot line.

4.103. **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

Montgomery County, or a lot described by metes and bounds, the description and deed of which has been recorded in such office.

4.104. **Manufactured Housing Unit**. Manufactured housing unit shall mean any structure designed to be used as a habitable space, that is transportable in one or more sections, which mayor may not be permanently attached to a chassis or placed on a foundation, and meeting the design and construction standards of the United States Department of Housing and Urban Development.

4.105. **Manufacturing**. Manufacturing shall mean the assembling, altering, converting, fabricating, finishing, processing or treatment of a product.

4.106. **Manufacturing, Light**. Light manufacturing shall mean the assembling, altering, converting, fabricating, finishing, processing or treatment of a product utilizing a relatively clean and quiet process which does include or generate objectionable or hazardous elements such as smoke, odor, vibration, water pollution or dust and which is operating and storing products in a completely enclosed structure.

4.107. **Nursing Home, Rest Home Or Convalescent Home**. A nursing home, rest home or convalescent home shall mean a place, residence or home used for the boarding and care, for a consideration, of not less than three (3) persons, not members of the immediate family operating such facilities, who by reason of age or infirmity are dependent upon the services of others.

4.108. **Office**. An office is a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.

4.109. **Nonconforming Lot Or Land**. "Nonconforming lot or land" means a lot, portion of a lot, or land which lawfully existed of record as a buildable lot or land at the effective date of adoption or amendment of this Zoning Ordinance that could not be built upon under the terms of this Zoning Ordinance, as amended, by reason of restrictions on area, yards or other requirements concerning the lot or land.

4.110. **Nonconforming Sign**. "Nonconforming sign" means a sign which lawfully existed at the effective date of adoption or amendment of this Zoning Ordinance that could not be erected and/or used under the terms of this Zoning Ordinance, as amended, by reason of not conforming to the regulations on signs applying in the district in which it is located.

4.111. **Nonconforming Use**. "Nonconforming use" means a use which lawfully existed at the effective date of adoption or amendment of this Zoning Ordinance that could not be conducted under the terms of this Zoning

Ordinance, as amended by reason of not conforming to the uses lawfully permitted in the district in which it is located.

4.112. **Nursery Schools**. "Nursery schools" means private facilities in which pre-school age children are adequately cared for and/or provided training.

4.113. **Massage**. "Massage" means any method of pressure on or friction against or stroking, kneading, rubbing, taping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice for a purpose other than the treatment of disorders of the human body.

4.114. **Massage Parlor**. "Massage parlor" means anyplace where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatments or manipulation of the human body which occurs as a part of or in connection with "specified anatomical areas", is offered**.** The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor, or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder, nor by any other individual licensed by the State of Ohio to perform massages.

4.115. **Mechanically Or Electrically Operated Amusement Device**. "Mechanically or electrically operated amusement device" means any machine, device or instrument which may be operated or set in motion upon the insertion of a coin, token, slug or payment of a fee for use as a game, contest of skill or amusement. This definition shall not include jukeboxes, coin-operated telephones or merchandise vending machines.

4.116. **Mobile Home Or Coach**. "Mobile home or coach" means a structure manufactured on a chassis to be towed or transported on wheels, designed as a single family dwelling comprised of one (1) or more units and intended for year-round occupancy when placed on a mobile home stand and connected to utilities. Such mobile homes shall contain no less than 1,680 square feet of gross floor area, shall be equipped with a water flushed toilet, lavatory and bathtub or shower and shall be no higher than twenty-two (22) feet at the highest point from the mounting pad.

4.117. **Motel**. "Motel" means a series of attached, semi-attached or detached dwellings containing bedroom, bathroom and closet space, where each unit has convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of transients. No cooking facilities are offered. The definition shall include tourist courts, auto courts and motor lodges.

4.118. **Moving Service/Lease Company**. "Moving service/lease company" means a company which provides moving services for hire to the public or which leases trucks, trailers, semis, commercial tractors, semi-trailers and other equipment used by the public to move goods.

4.119. **Nonconforming Structure**. "Nonconforming structure" means a structure or portion of a structure which lawfully existed at the effective date of adoption or amendment of this Zoning Ordinance that could not be built under the terms of this Zoning Ordinance, as amended, by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk or other requirements concerning the structure

4.120. **Open Space**. Open space is land used for resource protection, recreation, amenity and/or buffers.

4.121. **Open Storage**. Open storage shall mean the keeping, in an unroofed area, of any goods, junk, merchandise, materials or vehicles in the same place for more than 24 hours.

4.122. **Parking Area, Private**. A private parking area shall mean an open area for the same uses as a private garage.

4.123. **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.

4.124. **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 8'6", either within a structure or in the open, exclusive of driveways or access drives, for the parking of motor vehicles.

4.125. **Patio**. "Patio" means an open-sided, ground level improvement of the surface of a lot without roof which covers the vegetation and ground with concrete, wood, stone, gravel or any other nonliving building material.

4.126. **Patio Cover/Porch**. "Patio cover/porch" means a projection out from the building to cover an area used for outdoor living or entry way. No vehicle, car or similar vehicle may be stored or parked under this projection.

4.127. **Paved Surface**. "Paved surface" means a hard, smooth surface made principally of asphaltic concrete, Portland concrete or brick over a concrete base that shall bear the load of wheeled vehicles.

4.128. **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, tailor, dressmaker, doctor, attorney, architect or a photocopy duplication center.

4.129. **Planned Development**. Planned development shall mean.

A. Land under unified control, planned and developed as a whole, and

B. In a single development operation or a definitely programmed series of development operations including all lands and buildings, and

C. According to comprehensive and detailed plans which include not only streets, utilities, lots, or building sites and the like, but also site plans and design principles for all buildings as intended to be located, constructed, used, and related to each other; and detailed plans for other uses and improvements on the land as related to buildings, and

D. With a program for provision, operation, and maintenance of such areas, improvements, and facilities necessary for common use by some or all of the occupants of the development, but which will not be provided, operated, or maintained at general public expense.

4.130. **Planning Commission**. Planning Commission shall mean the Planning Commission of the Village of Phillipsburg.

4.131. **Plant Material Nurseries**. Plant material nurseries shall mean the selling and growing of plants, flowers, vegetables, shrubs and trees including the selling and warehousing of garden equipment and supplies and the storage of bulk gardening items, bagged and/or on pallets.

4.132. **Public Park Or Recreation Area**. "Public park" or "recreation area" means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the Village which is under the control, operation or management of any governmental entity.

4.133. **Premises**. Premises shall mean any lot or combination of contiguous lots held in single ownership, together with the development thereon; a condominium complex constitutes one premises.

4.134. **Printing Establishments**. Printing establishments shall mean an establishment that provides duplicating services using photocopy, blueprint and/or offset printing equipment including the collating of booklets and reports. Printing establishments shall not include copy service centers or self-service copy centers that primarily utilize photocopy machines as their source of duplication.

4.135. **Recreation, Active**. Active recreation shall mean the improvement of the land, open to the general public, which provides facilities serving the recreational needs of the community. Active recreational areas shall include, but are not limited to. swimming pools, athletic fields, tennis courts, amphitheaters, community centers, and playgrounds.

4.136. **Recreation, Commercial**. Commercial recreation is land or facilities operated as a business and are open to the general public for a fee that shall include, but is not limited to rollerblade rental, billiard parlors, video amusement arcades, pay-to-play athletic fields, golf courses, ice skating rinks or swimming pools.

4.137. **Recreation, Noncommercial**. Noncommercial 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 shall include but is not limited to. picnic areas, bike/hike trails, riding stables, public golf courses, athletic fields or swimming pools.

4.138. **Recreation, Passive**. Passive recreation shall mean the use of unimproved land, in its natural state and open to the general public, which provides for a variety of activities for the outdoor exercise and activity needs of the community. Passive recreational areas shall include, but are not limited to. unimproved backpacking trails, unimproved hiking trails, primitive camping areas, canoeing, swimming, rafting, scientific and scholastic studies. Lands may be improved for handicapped access.

4.139. **Recreation Space (Countable)**. Recreation space shall mean all area, open or enclosed, available for the general use of the residents of a Planned Residential District for active or passive recreation. Recreation space shall be provided in locations easily accessible to the living units, but where they will not impair the view and privacy of living units. Such space may be a part of the required livability space.

4.140. **Religious Place Of Worship**. A religious place of worship shall mean 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.

4.141. **Recreational Vehicle**. "Recreational vehicle" means a motorized, self-contained portable dwelling designed and constructed as an integral part

of a self-propelled vehicle with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation and vacation uses.

4.142. **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 and accessory to the main purpose of the laboratory.

4.143. **Restaurant**. A restaurant is an establishment with table services whose principal business is the selling of unpackaged food and beverages to the customer in a ready to consume state, in individual servings, or in non-disposable containers.

4.144. **Restaurant, Fast Food**. A fast food restaurant is an establishment whose principal business is the sale of prepared or rapidly prepared food, in disposable containers and without table service, directly to the customer in a ready-to-consume state.

4.145. **Retail Business**. A retail business shall mean any business selling goods, wares or merchandise to the ultimate consumer for direct consumption and not for resale.

4.146. **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.

4.147. **Roadside Stand**. A roadside stand shall mean a temporary structure designed or used for the display or sale of agricultural products produced on the premises upon which such a stand is located.

4.148. **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. 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.

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

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

4.151. **Sign, Advertising**. An advertising sign is a sign which directs attention to a use, comma related to the premises on which the sign is located.

4.152. **Residential District Or Use**. "Residential district or use" means any zoning district set forth in the that contains the words "residence" or "residential" in its title.

4.153. **School**. "School" means any public or private educational facility licensed by the State of Ohio including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior and 4-year colleges, and universities. "School" includes the school grounds, but does not include the facilities used primarily for another only incidentally as a school.

4.154. **Screening**. "Screening" means a fence, hedge, living wall or earth mound, not less than six (6) feet in height which hides from view whatever is to be screened, but does not hinder or impede the safety of vehicles entering or exiting the property.

4.155. **Semi**. "Semi" means a "Semitractor" as defined below, (but excluding an "Agricultural Tractor"), and may also include a "Semitrailer" as defined below, when such semitrailer is attached to the semitractor. A semitractor alone or with an attached semitrailer is considered a semi. A semitrailer not attached to a semitractor is not a semi.

4.156. **Semitractor**. Semitractor " means a "Commercial Tractor" as defined in the O.R.C.

4.157. **Semitrailer**. "Semitrailer" means a "Semitrailer" as defined in the O.R.C.

4.158. **Service Station**. "Service station" means a business establishment dispensing and selling fuels and products as in a filling station operation with the addition of automobile repair and care, that is washing and polishing.

4.159. **Sign, Awning, Canopy Or Marquee**. An awning canopy or marquee sign is a sign that is mounted on or painted on or attached to an awning, canopy or marquee.

4.160. **Sign, Bulletin Board**. A bulletin board sign is a structure containing a surface upon which is displayed the name of a religious institution, school or library, auditorium, stadium, athletic field or area of similar use for the announcement of services or activities to be held therein.

4.161. **Sign, Construction**. A construction sign is a sign indicating the names of architects, engineers, contractors and similar persons involved in the design and construction of a structure or project.

4.162. **Sign, Directional**. A directional sign is a sign directing vehicular or pedestrian movement onto or within a premises with no identification or advertising on the sign.

4.163. **Sign, Flashing**. A flashing sign shall be any illuminated sign on which the artificial light or any part thereof has conspicuous or intermittent variation in intensity or color.

4.164. **Sign, Freestanding**. A freestanding sign is a sign suspended or supported by one or more uprights or braces in or upon the ground surface.

4.165. **Sign, Identification**. An identification sign is a sign which displays only the same address and/or use of the premises upon which the sign is located or to which it is affixed or the product or service offered therein.

4.166. **Sign, Illuminated**. An illuminated sign shall mean a sign that is lighted by an artificial light source.

4.167. **Sign, Moving**. A moving sign shall mean any sign which is part or total, rotates, revolves or otherwise is in motion.

4.168. **Sign, Name Plate**. A name plate sign is a sign designating only the name and address or the name and professional occupation and address of a person or persons residing in or occupying space in such building or premises.

4.169. **Sign, Painted Bulletin**. A painted bulletin sign is an advertising structure on which advertising design is painted and posted, and which may incorporate the use of cutouts and/or other embellishments.

4.170. **Sign, Portable**. A portable sign is a sign that is attached to wheels, skids, or other forms of mounting which is not permanently affixed in or to the ground.

4.171. **Sign, Poster Panel**. A poster panel sign is an advertising structure measuring not more than twelve (12) feet by twenty-five (25) feet overall on which posters are displayed.

4.172. **Sign, Projecting**. A projecting sign is a sign suspended from or supported by a building structure, or column and extending therefrom, more than fifteen (15) inches.

4.173. **Sign, Promotional**. A promotional sign is a temporary sign, the function of which is to announce a special event.

4.174. **Sign, Real Estate**. A real estate sign is a sign pertaining to the sale or lease of the lot or tract of land on which the sign is located or to the sale or

lease of one or more structures or a portion thereof located on such lot or tract of land.

4.175. **Sign, Roof**. A roof sign shall mean any sign which is erected over the roof or parapet above the roofline and/or receives any or all its support from the roof structure.

4.176. **Sign, Temporary**. A temporary sign shall mean a banner, pennant, poster display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, person, institution, organization or business and is constructed of cloth, canvas, plastic sheet, cardboard or other like materials and which is intended to be displayed for a limited period of time.

4.177. **Sign, Wall**. A wall sign is a sign which is affixed, painted on or attached to the wall of the building or other structure and which extends not more than fifteen (15) inches from the face of the wall.

4.178. **Sign, Warning**. A warning sign is any sign indicating danger. or a situation which is potentially dangerous.

4.179. **Sign Area**.

A. "Sign area" means the area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) which shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that shall encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets Zoning Ordinance regulations and is clearly incidental to the display itself.

B. For the purpose of this Zoning Ordinance, sign area is the square foot measurement of one (1) face. If the sign is multi-sided (more than two (2)) or solid in nature as in two (2) sides of a building, the allowing square foot area shall be determined by adding all the area of all sides of the sign and dividing by two (2) but not to exceed the allowable sign area of that district.

4.180. **Sign Face**. The sign face shall be the surface of the sign upon, against or through which the message of the sign is exhibited.

4.181. **Sign Height**. The sign height shall be the vertical distance from the uppermost point used in measuring the area of the sign to the crown of the road on which the property fronts.

4.182. **Sign Structure**. The sign structure shall be the supports, uprights, bracing or framework for signs.

4.183. **Stable**. A stable is a structure for the keeping of horses and ponies.

4.184. **Standard, Performance**. Performance standards are a criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases, and other objectionable or dangerous elements generated by and inherent in or incidental to land uses.

4.185. **Story**. A story is that portion of a building, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

4.186. **Street**. A street is an improved public right-of-way forty (40) feet or more in width which provides a public means of access to abutting property or any such right-of-way more than thirty (30) feet and less than fifty (50) feet in width provided it existed prior to the enactment of this Code and provided such street has been accepted by the Village or Montgomery County. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

4.187. **Street, Major**. A major street is a street with a right-of-way of seventy (70) feet or greater as shown on the Official Thoroughfare Plan for Montgomery County, Ohio.

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

4.189. **Structure**. A structure shall mean anything constructed, except pavement, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

4.190. **Swimming Pool**. Any body of water or receptacle for water having a depth greater than two (2) feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground outside a building.

4.191. **Storage Shed**. "Storage shed" means a structure for the use of keeping and preserving diversified articles for future use, the size of which should not exceed twelve (12) feet by twelve (12) feet and eight (8) feet in total height and shall not be permanently attached to the house.

4.192. **Site Or Development Plan**. "Site or development plan" refers to a set of to-scale drawings and associated text containing the following elements of information regarding the proposed and/or existing use(s) for a premises.

A. Architectural Elevations. The exterior architectural elevations of all structures proposed and/or existing on the site showing the general design, architectural features, color, and building materials. The architectural elevations of structures immediately adjacent to the applicant's property may be required.

B. Lighting. The location, design, intensity, color and beam spread of all exterior lighting.

C. Other Relevant Information. Any additional relevant information requested by the City.

D. Parking and Loading. The location, dimension and layout of all areas to be used for parking or loading.

E. Paving. The location, dimensions and method of improvement of all driveways, parking areas, walkways and other means of access, ingress and egress.

4.193. **Trailer**. "Trailer" means any vehicle or object not structurally anchored or secured to a foundation, propelled or capable of being propelled by an attached vehicle or other propelling apparatus for residential, commercial, hauling or storage purposes.

4.194. **Tavern**. An establishment serving alcohol beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may be available for consumption on the premises.

4.195. **Thoroughfare Plan**. The thoroughfare plan shall mean The Official Thoroughfare Plan of, and as adopted by the Planning Commission of Montgomery County, establishing the location and official right-of-way widths of principal highways and streets in Montgomery County, on file in the office of the Recorder, together with all amendments thereto subsequently adopted.

4.196. **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.

4.197. **Trailer Home Park Or Mobile Home Park**. A trailer home park is any lot or part thereof, or any parcel of land which is used or offered as a location for two or more trailers used for any purpose set forth in Trailer Home or Mobile Home above.

4.198. **Truck Terminal**. A truck terminal shall mean a premises which are used for loading or unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point, and which is designed to accommodate the simultaneous loading or unloading of two (2) or more trucks.

4.199. **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.

4.200. **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.

4.201. **Use, Conditional**. Conditional use is a use which is permitted in a district only if a zoning certificate therefore is expressly authorized by the Board of Zoning Appeals.

4.202. **Trailer-Small Utility Type**. "Trailer-small utility type" means any trailer less than twenty (20) feet long drawn by a motor vehicle for the occasional transport of personal effects other than business use.

4.203. **Travel Trailer**. "Travel trailer" means any vehicle or mobile structure designed for highway travel, on wheels, skids, rollers or blocks designed to be used as a temporary dwelling for travel, recreational and vacation wise. This includes mobile homes.

4.204. **Truck Wash**. "Truck wash" means any establishment for the purpose of cleaning motor vehicles and trucks rated in excess of one (1) ton capacity.

4.205. **Use, Non-Conforming**. A non-conforming use is any building, structure, parking area, or premises legally existing or used at the time of adoption of this chapter, or any amendment thereto, and which does not conform with the use regulations of the district in which located. Any such building, structure, or premises 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.

4.206. **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 Zoning Administrator provided that the applicant meets the applicable requirements of the Code.

4.207. **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 owning 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 unnecessary and undue hardship.

4.208. **Yard**. A yard shall mean an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward.

4.209. **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.

4.210. **Yard, Front, How Measured, Least Depth**. Such depth shall be measured tram the right-of-way line of the existing street on which the lot fronts; provided, however, that if the proposed location of the right-of-way line of such street as established on the Thoroughfare Plan 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 said Thoroughfare Plan.

4.211. **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.

4.212. **Yard, Rear, How Measured, Least Depth**. The average distance measured horizontally between any part of a building, except as hereinafter specified, and the nearest rear lot line.

4.213. **Yard, Side**. Side yard shall mean an open space extending from the front yard to the rear yard between a building and the nearest side lot line unoccupied and unobstructed from the ground upward except as hereinafter specified.

4.214. **Vehicle**. "Vehicle" means all automobiles, trailers, truck campers, buses, boats and commercial vehicles.

4.215. **Vehicle, Commercial**. "Vehicle, commercial" means any motor vehicle having motor power designed and used for carrying merchandise or freight.

4.216. **Yard, Side, How Measured, Least Width**. Such width be measured from the nearest side lot line. On a corner lot when the side lot line is a side street lot line, the required side yard shall be the same as the required front yard of the lot adjacent thereto.

4.217. **Zoning Administrator**. The Zoning Administrator is appointed by the Mayor.

4.218. **Zoning Map**. Zoning map shall mean the Zoning Map or Maps of the incorporated area of the Village, or portions thereof; together with all amendments thereto subsequently adopted.

ARTICLE 5 ZONING DISTRICTS AND MAP

5.01. **Establishment of Zoning Districts**. In order to carry out the intent and purpose of this zoning ordinance, the Village of Phillipsburg is hereby divided into the following zoning districts.

R-1 Single Family Residential District
R-2 Multi-Family Residential District
B-1 Central Business District
B-2 Highway Business District OS-1 Office/Service District
C-1 Commercial District

5.02. **Official Zoning District Map**. The boundaries of the zoning districts established in Section 5.01 are shown on the "Official Zoning District Map of the Village of Phillipsburg, Ohio". This map, together with all explanatory data thereon, including all changes thereof as hereinafter provided, shall be incorporated and made a part of this zoning ordinance.

The official zoning district map shall be identified by the signature of the Mayor attested by the Village Clerk/Treasurer, and bear the seal of the Village of Phillipsburg under the following words. *This is to certify that this is the Official Zoning District Map referred to in Section 5.02 of the Zoning Ordinance of the Village of Phillipsburg (including date of adoption)*. If, in accordance with the provisions of this zoning ordinance, changes are made in district boundaries or other matter portrayed on the official zoning district map, such changes shall be made on such map within thirty (30) working days after the amendment has been approved by the Village Council, together with a statement on such map as follows. "On (date), by official action of the Village Council, the following change(s) were made" (brief description with reference number of appropriate ordinance.)

The original as passed and one (1) copy of the Official Zoning District Map are to be maintained and kept up to date. One (1) copy shall be placed on public display in the Municipal Building. The original shall be kept in the Clerk/Treasurer's office, accessible to the public, and shall be the final authority as to the current zoning status of lands, buildings, and other structures within the Village of Phillipsburg.

5.03. **Uncertainty of Boundary Location**. Where uncertainty exists with respect to the boundaries of the various zoning districts as shown on the Official Zoning District Map, the following rules shall apply.

A. Boundaries indicated as approximately following the center line streets, highways, or alleys shall be construed to follow such center lines;

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

C. Boundaries indicated as approximately following municipal corporation lines shall be construed as following such corporation lines;

D. Boundaries indicated as following railroad lines shall be construed to be the centerline between the main tracks;

E. Boundaries indicated as approximately following the center lines or shorelines of streams, rivers, canals, or other bodies of water shall be construed to follow such center lines or shore lines;

F. Boundaries indicated as parallel to or extensions of features indicated in subsections A through E above shall be so construed;

G. Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map; and

H. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning District Map, or in other circumstances not covered by sub-sections A through G above, the Board of Zoning Appeals shall interpret the district boundaries.

5.04. **Zoning Upon Annexation**. Whenever any area is annexed to the Village of Phillipsburg, the following shall apply.

A. Land that has been zoned by a county or other local government previous to annexation shall remain classified under such zoning district until the Village of Phillipsburg adopts an ordinance amending the zoning district classification; and

B. Not later than ninety (90) days after the effective date of annexation, the Village Planning Commission shall recommend the appropriate zoning district or districts for such area to the Village Council and the map shall be amended according to the prescribed procedure set forth in Article 13.

ARTICLE 6 DISTRICT REGULATIONS

6.01. R-1 Single-Family Residential District

A. Intent. The R-1 Single-Family Residential District is intended to provide for an environment of predominately single-family dwellings. Necessary services and accessory uses compatible with residential surroundings are encouraged to locate within the district.

B. Permitted Principal Uses.

1. One single-family dwelling.

2. Church or similar place of worship as regulated in Section 7.14.

3. Essential services, excluding buildings, electric transformer stations and substations. No outside storage or stockpiling of materials shall be permitted.

4. Public building and/or use which is supported in whole or in part by taxes or special public assessments, the location of which has been fixed by studies. Such uses include, parks, playgrounds, libraries, schools, fire stations, maintenance facilities, and community centers. No outside storage or stockpiling of materials shall be permitted. unless screened in accordance with Section 7.20.

C. Accessory Uses.

1. Private garage and accessory structures necessary for domestic activities and storage as regulated in Section 7.11, and which does not include any business activity or other use not otherwise permitted by this zoning ordinance.

2. Accessory off-street parking and loading spaces as regulated in Article 8.

3. Accessory signs as regulated in Article 9.

4. Home occupation as regulated in Section 7.17.

5. Private accessory swimming pool and game courts for occupants and their guests as regulated in Section 7.12.

6. The renting or leasing of sleeping rooms by a resident family, provided the number of roomer does not exceed two (2) in any dwelling unit.

D. Conditional Uses. The following uses may be allowed, provided a conditional use permit is granted by the Board of Zoning Appeals in accordance with Article 12, Section 12.02 of this zoning ordinance. The Board of Zoning Appeals shall require that all buildings allowed by such conditional use permit be set back from all lot lines fifteen (15) or more feet, depending upon the characteristics of the area.

1. Cemetery, when extension of an existing cemetery.

2. Nursing Home.

3. Private school and/or institution of higher learning.

4. Private stable or corral, provided that not more than one horse or pony is stabled for each 15,000 square feet of lot area, including building sites, and provided further, that no stable or corral shall be located within fifty (50) feet of any lot or property line.

5. Public utility building, telephone exchange, transformer station and substation, except garages and maintenance buildings.

6. Recreation area or building operated by membership clubs for the benefit of their members and not for gain; provided that any principal building, accessory building or out-of-doors swimming pool shall be located not nearer than two hundred (200) feet away from any adjoining land zoned for a residential use.

E. Area and Yard Requirements.

1. Minimum Lot Area.

   6,250 square feet unless a greater area is required by the Montgomery County Health Department for an on-site wastewater disposal system.

2. Minimum Lot Frontage.

   a. 50 feet

   b. 75 feet for corner lots

3. Minimum Front Yard Requirements.

   a. 50 feet along State Highways and/or when off-street parking is located within the front yard

b. 25 feet along all other roads

c. When the frontage of one side of a block is more than forty (40) percent developed at the time of enactment of this zoning ordinance, the required setback for new construction or alteration shall be the average of the established setbacks or forty (40) feet, whichever is less.

4. Minimum Side Yard Requirements.

a. 8 feet for one side

b. 20 feet total for both sides

5. Minimum Rear Yard Requirement. 40 feet

6. Lot Coverage.

Paving, impervious materials, driveways, and accessory structures shall not occupy more than thirty-five (35) percent of the required front yard. No detached accessory building or structure shall be erected in any yard or court except .a rear yard and the total of all accessory buildings, structures, and uses shall not occupy more than thirty-five (35) percent of the area of the rear yard.

F. Building Height Regulations. No building or structure within any R-1 Single-Family Residential District shall be erected in excess of two and one half (21/2) stories or thirty (30) feet in height.

G. Front yard Coverage. A minimum of sixty-five (65) percent of the required front yard area shall remain open and landscaped as green space.

6.02. R-2 Multi-Family Residential District

A. Intent. The purpose of this -district is to provide for two-family and multiple-family residential development at a density up to approximately eight units per acre. Necessary services and accessory uses compatible with multi-family residential surroundings are encouraged. This district should only be encouraged at locations which possess adequate access to shopping facilities and other community services via major streets without passage through areas of lower density.

B. Permitted Principal Uses.

1. Two-family dwelling.

2. Multiple-family dwelling up to a maximum of four (4) dwelling units per building.

3. Church or other place of worship as regulated in Section 7.14.

4. Essential services, excluding buildings, electric transformer stations, and substations. No outside storage or stockpiling of material shall be permitted.

5. Child Care Nursery as regulated in Section 7.19.

6. Public building and/or use which is supported in whole or in pan by taxes or special public assessments, the location of which has been fixed by studies. Such uses include. parks, playgrounds, libraries, schools, fire stations, community centers, water pumping and storage facilities and pumping facilities. No outside storage or stockpiling of material shall be permitted.

C. Accessory Uses.

1. Private garage and accessory structures necessary for domestic activities and storage as regulated in Section 7.11, and which does not include any business activity or other use not otherwise permitted by this zoning ordinance.

2. Accessory off-street parking and loading spaces as regulated in Article 8.

3. Accessory signs as regulated in Article 9.

4. Home occupation as regulated in Section 7.17.

5. Private accessory swimming pool and game courts for occupants and their guests as regulated in Section 7.12.

D. Conditional Uses. The following uses may be allowed, provided a conditional use permit is granted by the Board of Zoning Appeals in accordance with Article 12, Section 12.02 of this zoning ordinance. The Board of Zoning Appeals shall require that all buildings allowed by such conditional use permit be set back from all lot lines fifteen (15) or more feet, depending upon the characteristics of the area.

1. Cemetery, when extension of an existing cemetery.

2. Nursing Home.

3. Public utility building, telephone exchange, transformer station and substation, except garages and maintenance buildings.

4. Private school and/or institution of higher learning.

5. Recreation area or building operated by membership clubs for the benefit of their members and not for gain; provided that any principal building, accessory building or out-of-doors swimming pool shall be located not nearer than two hundred (200) feet way from any adjoining land toned for a residential use.

E. Area and Yard Requirements.

1. Minimum Lot Area.

   a. 8,000 square feet for two-family dwellings

   b. 5,000 square feet per dwelling unit for multiple family dwellings

2. Minimum Lot Frontage.

   a. 100 feet for two-family dwellings

   b. 125 feet for multiple family dwellings

3. Minimum Front Yard Requirements.

   a. 70 feet along State Highways and/or when off-street parking is located within the front yard.

   b. 40 feet along all other roads

   c. When the frontage of one side of a block is more than forty (40) percent developed at the time of enactment of this zoning ordinance, the required setback for new construction or alteration shall be the average of the established setbacks or forty (40) feet, whichever is less.

4. Minimum Side Yard Requirements.

   a. 6 feet for one side arid 15 feet total for both sides

5. Minimum Rear Yard Requirements. 40 feet

F. Building Height Regulations. No building or structure within any R-2 Multi-Family residential District shall be erected in excess of two and one-half (2%) stories or thirty (30) feet in height.

G. Landscaping Requirements. All multiple-family developments shall provide screening along all sides of the property that abut an existing single-family residence or a single-family residential zoning district. Such screening shall contain dense evergreen vegetation and/or mounding and be in accordance with the requirements of Section 7.20. All zoning permits for multiple-family developments shall contain plans and specifications for installation and maintenance of such screening.

H. Front Yard Coverage. A minimum of sixty-five (65) percent of the required front yard area shall remain open and landscaped as green space.

6.03. B-1 Central Business District

A. Intent. The B-1 Central Business District is intended to provide for the continued existence of a centrally-located traditional business district within the community. It is designed to provide for a variety of retail and service uses which do not require large expanses of land, but function well within enclosed buildings and upon the smaller lot sizes found within the center of the community. Uses within this district are designed to serve the community-oriented needs of the Village of Phillipsburg as well as the consumer population outside the corporation boundary.

B. Permitted Principal Uses.

1. Apparel shops, including specialty shops, shoe stores, and similar merchandise.

2. Automobile club.

3. Automobile parts and accessories, exclusively.

4. Automobile service stations, including light repairs and accessory sales and installation.

5. Automobile wash facilities which are completely enclosed in a building.

6. Banks, loan offices, stack exchange office and other financial institutions, including drive in window.

7. Book, stationery and office supply store.

8. Camera shop.

9. Chamber of Commerce.

10. Convenience carry-out store, including accessory automobile fuel pumps.

11. Drug stores.

12. Dry cleaning pick-up stations, including drive-in window, provided such use shall be located at least two hundred (200) feet from any existing residential district.

13. Food stores, including super-markets and specialty stores such as bakeries, candy stores and similar merchandise.

14. Fruit. florist, plant material nursery stock and produce sales.

15. Furniture and appliances, including rugs, floor coverings, drapery, sewing machine shops, used furniture, office equipment, supplies, and similar uses.

16. Gift shop.

17. Hardware and related stores as paint, wallpaper, and similar merchandise.

18. Household appliances repair.

19. Insurance and/or real estate office.

20. Jewelry store.

21. Medical and dental office or clinic.

22. Personal services including barber, beauty, and tanning shops.

23. Photographic studio.

24. Plumbing and heating shops.

25. Post office.

26. Publishing and printing services.

27. Radio, television and electronic store.

28. Record and music store.

29. Refreshment stand.

30. Repair shops such as shoe and watch repair.

31. Travel agencies.

32. Variety stores.

33. Video arcade.

C. Accessory Uses.

1. Accessory off-street parking and loading spaces as regulated in Article 8. On-street parking spaces and parking spaces within a municipal parking lot may be counted towards the total number of parking spaces required in Article 8 for a use within the B-1 Central Business District, provided such parking spaces are located a minimum of sixty (60) feet from the structure housing such use.

2. Accessory signs as regulated in Article 9.

3. Storage within an enclosed building of supplies which are normally carried in stock in connection with a permitted use.

D. Conditional Uses. The following uses may be allowed, provided a conditional use permit is granted by the Board of Zoning Appeals in accordance with Article 12, Section 12.02 of this zoning ordinance.

1. Accessory living quarters for persons employed on the premises.

2. Manufacturing of goods for sale at retail on the premises which have a high value-to-bulk ratio, do not involve extensive mechanization, and are normally associated with a permitted use.

3. Off-site Parking Lot.

E. Area and Yard Requirements.

1. Minimum Lot Area: 8,000 square feet.

2. Minimum Lot Frontage: 60 feet.

3. Minimum Front Yard Requirements: 20 feet, except where a side of a block is divided between the B- I Central Business

District and a residential district. In such case the front yard set back of the applicable residential district shall apply.

4. Minimum Side Yard Requirements:

   a. 0 feet

   b. 10 feet where adjacent to a residential district or a residential dwelling

5. Minimum Rear Yard Requirements. 30 feet when adjacent to a residential district.

F. Building Height Regulations. No building or structure in the B-1 Central Business District shall exceed two and one-half (21/2) stories or thirty (30) feet in height.

6.04. B-2 Highway Business District

A. Intent. The B-2 Highway Business District is intended to provide for commercial activities that require larger expanses of land than are desirable within the central part of the community. It is also the intent of this district to provide areas for certain activities traditionally conducted both inside and outside of enclosed buildings, thus minimizing potential detrimental impacts on surrounding land uses. The location of this district should be encouraged only on the outer periphery of the community along the major street network.

B. Permitted Principal Uses.

1. Automobile club.

2. Apparel shop, including specialty shop, shoe store, and similar merchandise.

3. Automobile parts and accessories, exclusively.

4. Automobile sales, new and used, provided service access be available from side street or alley.

5. Automobile wash facility which is enclosed in a building.

6. Banks, load office, stock exchange office and other financial institutions. including drive-in window.

7. Book and stationery store.

8. Building services and supplies.

9. Camera shop.

10. Chamber of Commerce.

11. Commercial recreation facility (indoor or outdoor), including bowling alley, movie theater.

12. Convenience carry-out store, including accessory automobile fuel pumps.

13. Department store.

14. Drug stores.

15. Dry cleaning pick-up stations, including drive-in window, provided such use shall be located at least two hundred (200) feet from any existing residential district.

16. Farm implement sales.

17. Food store, including super-market and specialty store such as bakery, candy store and similar merchandise.

18. Fruit, florist, plant material nursery stock and produce sales.

19. Furniture and appliances, including rugs, floor coverings, drapery, sewing machine shop, used furniture, office equipment, supplies, and similar merchandise.

20. Gift shop.

21. Hardware and related stores such as paint, wallpaper, and similar merchandise.

22. Hotel or motel.

23. Household appliances repair.

24. Jewelry store.

25. Mortuary establishment (a caretaker's residence may be provided within the main building or the mortuary establishment).

26. Personal services including barber, beauty, and tanning shop.

27. Photographic studio.

28. Publishing and printing.

29. Radio, television and electronic store.

30. Record shop.

31. Refreshment stand.

32. Repair shop such as shoe and watch repair.

33. Restaurant.

34. Travel agency.

35. Variety store.

36. Video arcade.

C. Accessory Uses.

1. Off-street parking and loading spaces as regulated in Article 8.

2. Signs as regulated in Article 9.

3. Storage within an enclosed building of supplies or merchandise which are normally carried in stock in connection with a permitted use.

D. Conditional Uses. The following uses may be allowed, provided a conditional use permit is granted by the Board of Zoning Appeals in accordance with Article 12, Section 12.02 of this zoning ordinance.

1. Accessory living quarters for persons employed on the premises.

2. Manufacturing of goods for sale at retail on premises which have a high value-to-bulk ratio and not involving extensive mechanization.

3. Off-site Parking Lot.

4. Outdoor storage of supplies or merchandise which are normally carried in stock in connection with a permitted use.

E. Area and Yard Requirements.

1. Minimum Lot Area: 20,000 square feet

2. Minimum Lot Frontage: 100 feet.

3. Minimum Front Yard Requirements.

   a. 70 feet along State Highways and/or when off street parking is located within the front yard.

   b. 50 feet along all other roads.

4. Minimum Side Yard Requirements.

   a. 15 feet.

   b. 50 feet where adjacent to a residential district or a residential dwelling within an agricultural district.

5. Minimum Rear Yard Requirement: 50 feet.

F. Building Height Regulations. No building in the B-2 Highway Business District shall exceed two and one-half (2 ½) stories or thirty (30) feet in height.

6.05. OS-1 Office/Service District

A. Intent. The OS-1 Office/Service District is intended to provide for areas where a mixture of residential, office, and small-scale service uses may coexist. This district is intended to be used as a transition between established residential areas and non-residential uses, and along the major street network where existing residential structures and lots are of adequate size to allow a smooth transition of use.

B. Permitted Principal Uses.

1. Architectural, engineering and similar office.

2. Bed and Breakfast.

3. Insurance, legal, or real estate office.

4. Jewelry Store.

5. Medical and dental office or clinic.

6. Photographic studio.

7. Travel agency.

C. Accessory Uses.

1. Accessory off-street parking and loading spaces as regulated in Article 8.

2. Accessory signs as regulated in Article 9.

3. Storage within an enclosed building of supplies which are normally carried in stock in connection with a permitted use.

D. Conditional Uses. The following uses may be allowed, provided a conditional use permit is granted by the Board of Zoning Appeals in accordance with Article 12, Section 12.02 of this zoning ordinance.

1. Publishing and printing.

E. Area and Yard Requirements.

1. Minimum Lot Area: 8,000 square feet

2. Minimum Lot Frontage: 80 feet.

3. Minimum Front Yard Requirements.

a. 50 feet along State Highways and/or when off street parking is regulated in the front yard.

b. 25 feet along all other roads.

4. Minimum Side Yard Requirements.

a. 8 feet.

b. 20 feet where adjacent to a residential district or a residential dwelling.

5. Minimum Rear Yard Requirement: 50 feet.

F. Building Height Regulations. No building or structure in the OS-I Office/Service District shall exceed two and one-half (21/2) stories or thirty (30) feet in height.

6.06. C-1 Commercial District

A. Intent. The C-1 Commercial District is intended to provide areas for small scale commercial activity generally characterized by its low intensity and having little or no impact on the community and environment, it is intended to be limited to areas where continued use of existing nonresidential structures can be achieved without

posing detrimental impacts upon existing residential neighborhoods. It is intended that areas placed within this district have also appropriate access to the major street network.

B. Permitted Principal Uses.

1. Builders' supply store.

2. Building and trades, including contractor's yard and utilities storage yard.

3. Commercial greenhouse.

4. Flour or grain mill.

5. Furniture reupholstering and repair.

6. Glass products, pottery, figurines or manufacture of similar products using previously pulverized clay.

7. Lumber yard.

8. Machine shop or tool and die shop.

9. Plumbing supply and contracting shops including storage yards.

10. Publishing and printing.

11. Repair, rental and servicing for appliances and equipment.

12. Sign contractor.

13. Wholesale distributors.

C. Accessory Uses.

1. Off-street parking and loading spaces regulated in Article 8.

2. Signs as regulated in Article 9.

3. Storage of materials within an enclosed building normally utilized in connection with a permitted sue.

D. Conditional Uses. The following uses may be allowed, provided a conditional use permit is granted by the Board of Zoning Appeals in accordance with Article 12, Section 12.02 of this zoning ordinance.

1. Warehouse or distribution renter, provided such building shall not be greater than ten thousand (10,000) square feet in gross floor area and no hazardous materials are stored on-site.

E. Area and Yard Requirements.

1. Minimum Lot Area: 30,000 square feet

2. Minimum Lot Frontage: 150 feet

3. Minimum Front Yard Requirements: 25 feet

4. Minimum Side Yard Requirements:

a. 15 feet.

b. 50 feet where adjacent to a residential district or a residential dwelling.

5. Minimum Rear Yard Requirement:

a. 25 feet.

b. 50 feet where adjacent to a residential district or a residential dwelling.

F. Building Height Regulations. No building or structure in the C-1 Commercial District shall exceed two and one-half (2%) stories or thirty (30) feet in height.

6.07. Principal Permitted Uses. The following uses shall be permitted of all property located in an Agricultural District. Other uses may be considered and approved by the Board of Zoning Appeals to be of similar character and therefore permitted.

A. Agriculture, or buildings and structures commonly required for the operation of a farm;

B. One-family dwellings; or two-family dwellings when located on five (5) acres or more;

C. Facilities used by the Village, such as garages for more than five (5) trucks or automobiles; storage yards for machinery, garbage or refuse disposal;

D. Sawmills, only for temporary operation, if same are used for removing timber on the premises or on abutting properties for a period not exceeding six (6) months;

E. Animal hospitals, clinics and kennels;

F. Home occupations; and/or

G. The keeping of two (2) roomers or boarders by a resident family using the property for the operation of a farm.

6.08. **Accessory Uses**. Only the following accessory uses shall be permitted in this district. Other uses are considered and approved by the Board of Zoning Appeals to be of similar character.

A. Accessory buildings and uses incident to any principal use when located on the same lot or tract;

B. Temporary stands for the sale of farm products, provided such products are produced on the premises and provided that the stand does not exceed an area of 200 square feet and is located in accordance with the Official thoroughfare Plan; and/or

C. Temporary buildings for the use in conjunction with construction work, which buildings shall be removed upon the completion of the construction work.

6.09. **Height Standard**. No building shall exceed two and one half (2 ½) stories or thirty-five (35) feet in height, excepting agricultural buildings.

6.10. **Area Standard**. All lots shall have an area, frontage and yard requirement as follows.

	Lot (acres)	Lot Frontage (feet)	*(Front Yard Depth (feet))	Side Least Width (feet)	Yard Widths Sum of Least Width (feet)	Rear Yard Depth (feet)
Dwellings	1	200	60	30	60	50
Other uses	2	200	60	30	60	50

* The front yard shall be measured from the established right-of-way lines as shown on the legal Official Thoroughfare Plan.

ARTICLE 7 PLANNED DEVELOPMENT PROVISIONS

7.01. **Purpose**. Planned Development Districts may be permitted as amendments to the Zoning Map, after application and approval of specific and detailed plans, where tracts suitable in location and character for the uses and structures proposed are to be planned and developed as units. Regulations set forth herein are adapted to unified planning and development in such districts. Applications for Planned Developments will be granted only when the Development Plan for the project is such that the public health, safety and welfare will not be jeopardized by a departure from the restrictions on corresponding uses in the standard zoning district.

7.02. **Types Of Planned Development**. Types of planned developments include PR Planned Residential District, PMH Planned Manufactured Home Residential District, PRV Planned Recreational Vehicles Park District, PC Planned Commercial District and PI Planned Industrial District. Use groupings within each district shall be governed by the requirements specified for each respective district discussed within applicable Sections of the Code.

7.03. **General Standards For Planned Developments**. The Village Planning Commission shall not approve a request for a Planned Development unless it shall, in each specific case, make specific findings of facts directly based upon the particular evidence presented to it, which supports conclusions that.

A. The Planned Development can be substantially completed within the period of time specified in the schedule of development submitted by the developer.

B. The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development.

C. The development will not impose an undue burden on public services and facilities, such as utilities, fire, and police protection.

D. The Development Plan contains such proposed covenants, easements, and other provisions relating to the proposed development standards, as would reasonably be required for the public health, safety and welfare.

E. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a Planned Development not

used for structures, parking and loading areas, or. accessways, shall be landscaped or otherwise improved.

F. Natural features such as water courses, trees, and rock outcrops will be preserved, to the degree possible, so that they can enhance the overall design of the Planned Development.

G. The layout must be designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services.

H. In any development which is primarily designed for or occupied by dwellings, all electric and telephone facilities, street light wiring, and other wiring conduits and similar facilities shall be placed underground by the developer; unless waived by the Planning Commission because of technical reasons.

7.04. Procedure For Approval

A. Preapplication Conference. Prior to filing a formal application for approval of a Planned Development, the developer shall request a preapplication conference with the Village Planning Commission. The purpose of such conference is to allow the developer to present a general concept of his proposed development prior to the preparation of detailed plans. For this purpose, the presentation shall include, but not be limited to, the following.

1. Written "letter of intent"- from the developer establishing his intentions as to development of the land.

2. Topographic survey and location map.

3. Sketch plans and ideas regarding water supply, sewage disposal, surface drainage, and street improvements.

The Planning Commission shall advise the developer of the zoning requirements which might effect the proposed development as well as the procedural steps for approval.

B. Preliminary Plan. The preliminary plans of the Planned Development shall be filed with the Zoning Administrator, who shall in turn forward copies to the Planning Commission for consideration; The required procedure for consideration and approval of the preliminary plan shall be.

1. Submission of the following.

   a. Written application for approval of a Planned Development shall be made on forms and in the manner prescribed by the Village.

   b. The application shall be accompanied by a fee consistent with the prevailing fee structure established by the Village.

2. The Planning Commission shall study material received and confer with other agencies of government as appropriate in the case to determine general acceptability of the proposal as submitted. In the course of such preliminary consideration, the Planning Commission may request, and the applicant shall supply, additional material needed to make specific determinations.

3. Following such study, the Planning Commission or its staff shall hold a conference or conferences with the applicant to discuss desirable changes in the first or succeeding drafts of the preliminary development plan and report.

4. Recommendations of the Planning Commission to the applicant shall be in writing, and following any such conference, agreements between the applicant and the Planning Commission as to changes in the preliminary plan and report or other matters to be recorded and acknowledged by the Planning Commission and the applicant. On items on which no agreement is reached, or there is specific disagreement, this fact shall be recorded and the applicant may place in the record his reasons for any disagreement.

5. When the preliminary development plan and report have been approved in principal (as a whole or with reservations specifically indicated) or when the applicant indicates in writing that no further negotiations with the Planning Commission are desired before proceeding, the Planning Commission shall schedule the proposed plan for a public hearing, following which it shall make its recommendations to Council. Such recommendations shall indicate approval, approval with specific reservations, or disapproval with reasons. With such recommendations, the Planning Commission shall transmit within sixty (60) days the latest draft of the preliminary plan and a report submitted by the applicant, a record of agreements reached, and matters on

which there was no specific agreement, including any reasons recorded by the applicant for any such disagreement.

6. Council shall schedule a- public hearing for the preliminary plan and respective planned development zone designation after receiving the proposal from the Planning Commission. Within 60 days, the Council shall approve the proposal, approve subject to conditions, or deny the proposal. If approved, the area of land marked shall be redesignated PR Planned Residential District, PMH Planned Manufactured Home Residential District, PVR Planned Residential Vehicle Park District, PC Planned Commercial District, PI Planned Industrial District and shall be used only in accordance with the uses and densities shown on the Planned Development Preliminary Plan.

C. Final Plan. The Final Planned Development Plan shall conform substantially to the preliminary plan. If desired by the developer, it may be submitted in stages with each stage reflecting a portion of the approved preliminary plan which is proposed to be recorded and developed; provided, however, that such portion conforms to all requirements of these regulations. The required procedure for approval of a final plan shall be.

1. The final plan and supporting data shall be filed with the Zoning Administrator who in turn forwards copies to the Planning Commission for certification that the final plan is in conformity with these regulations and in agreement with the approved preliminary plan.

2. After review of the final plan and supporting data, the Planning Commission shall approve or disapprove the plan within 60 days after submittal by the developer. Disapproval of the final plan shall include a clear statement of the reasons therefore.

3. The Planning Commission shall then forward the final plan together with their recommendations to the Council. The Council shall review the recommendations of the Planning Commission at the next regular meeting of the Council, and shall approve, approve subject to conditions, or deny the final application.

D. Recording of Final Development Plan. After approval by the Council of the final plan, the Zoning Administrator shall see that all requirements of the Subdivision Regulations have been complied

with before the Final Development Plan is presented to the Montgomery County Recorder for recording The purpose of such recording is to designate with particularity the land subdivided into convenient lots as well as the dimension of other lands, not so treated, into common open areas, and to designate each building or structure, as well as the use of the land in general. No Final Development Plan within the corporate limits of the Village shall be so recorded unless it shall have the approval of Council inscribed thereon.

E. Building Permit. No building permit shall be issued by the Zoning Administrator until the Final Development Plan has been approved and duly recorded and the Planning Commission and Council have approved the detailed plans (described in Section 7.04(c)).

F. The Zoning Administrator shall issue no certificate of occupancy until all utilities have been accepted by the Village in accordance with the Final Development Plan.

7.05. Changes In The Planned Development. A Planned Development shall be developed only according to the approved and recorded final plan and supporting data together with all recorded amendments and shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of premises (including the internal use of buildings and structures) and location of structures in the Planned Development as set forth therein.

A. Major Changes. Changes which alter the concept or intent of the Planned Development including increases in the number of units per acre, change in location or amount of non-residential land uses, more than 15 percent modification in proportion of housing types, significant redesign of roadways, utilities or drainage, may be approved only by submission of a new preliminary plan and supporting data, and following the "preliminary approval" steps and subsequent amendment of the Final Planned Development Plan.

B. Minor Changes. The Zoning Administrator, upon notifying the Planning Commission, may jointly approve minor changes in the Planned Development which do not change the concept or intent of the development without going through the "preliminary approval" steps. Minor changes are defined as any change not defined as a major change.

7.06. Schedule Of Construction. The Planning Commission shall consider the planned development subject to renovation if construction falls more than one (1) year behind the schedule filed with the final plan.

7.07. **Effect Of Denial Of A Planned Development**. No application for a planned development which has been denied wholly or in part by the Planning Commission and Council shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission and Council.

7.08. **Revocation**. In any case where a planned development has not been established (substantially underway) within one year from the date of granting thereof, then, without further action by the Planning Commission, the planned development authorization thereof shall be null and void.

7.09. **Penalty**. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this article shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be fined as specified in the Code.

7.10. **PR Planned Residential District**.

A. Policies Underlying Use of Zone. This district is intended to provide a good deal of flexibility in the arrangement and design of residential dwellings, based upon a unified development plan conceived and carried out for an entire area. Within this district, appropriate and reasonable population density is maintained while a variety of dwelling unit types is permitted. Natural features such as topography, trees and drainage ways are encouraged to remain in their natural state to the degree possible. Such developments are generally characterized by a significant proportion of usable open space, and unified design concept with particular attention devoted to the periphery of the development, with the objective being the compatibility of the development with its surroundings.

B. Permitted Uses. Those uses included as permitted and accessory uses in R-1 and R-2 Districts developed in a unified manner in accordance with the approved development plan.

Convenience establishments have accessory uses which have been established as necessary for the proper development of the community and to be so located, designated and operated to serve primarily the needs of the persons within the Planned Development if specifically approved as part of the Planned Development Plan. Uses shall be generally limited to those uses permitted in the C-1 District, with no direct access or advertising signs for such uses to be visible from the exterior of the development.

Such convenience establishments and their parking areas shall not occupy more than five (5) percent of the total area of the development.

No separate building or structure designed or intended to be used, in whole or part, for business purposes within a Planned Residential Development shall be constructed prior to the construction of not less than thirty percent (30%) of the dwelling units proposed in the development plan.

C. Area Requirements. The minimum land area required for a Planned Residential Development shall be five (5) acres. This area requirement may be varied at the discretion of the Planning Commission and Council if it can be demonstrated that a variance is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

D. Density Requirements. Any combination or cluster of housing units is permitted, provided that the average lot area per family or dwelling unit contained in the site, exclusive of the area of street rights-of-way, and commercial area, will not exceed the following net overall densities.

1. Four (4) dwelling units per acre for single family residential developments.

2. Six (6) dwelling units per acre for developments containing a combination of single family and two family units.

3. Eight (8) dwelling units per acre for a development containing a combination of single family, two family and multi-family units.

4. Twelve (12) dwelling units per acre for multi-family residential developments.

The above density requirements may be varied at the discretion of the Planning Commission and Council if it can be demonstrated that a variance is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

E. Site Design. All housing shall be sited to preserve privacy and to ensure natural light.

Lot widths may be varied to permit a variety of structural designs. It is also recommended that setbacks be varied. Every housing unit

should be situated to abut upon common open space or similar areas. A clustering of dwellings is encouraged.

F. Structure Spacing. A minimum of fifteen (15) feet shall be maintained between unattached principal structures.

G. Length. There shall be no continuous structure of apartments, attached dwellings, or townhouses containing more than the following respective maximum numbers of side by side dwelling units.

1. Apartments - twelve (12) units.

2. Attached dwellings other than townhouses - eight (8) units.

3. Townhouses - six (6) units.

H. Height. The height of any residential structure within a planned unit development shall not exceed thirty-five (35) feet, unless it can be demonstrated that an additional height is required, with provision of suitable open space to protect adjacent structures from adverse reduction of light and air.

I. Setback and Screening. A setback of fifty feet shall be provided along the entire perimeter of the development and retained in natural woods or be suitably landscaped with grass and/or ground cover, shrubs and trees. Under appropriate circumstances, at the discretion of the Planning Commission and the Council, this setback may be reduced to a setback of not less than thirty feet, it being expressly understood that both the Planning Commission and Council must approve such reduction of the fifty foot setback to a setback not less than thirty feet. Projects located and adjacent to commercial or industrially zoned areas shall provide screening facilities comprising landscaping, walls or both which will provide suitable protection to the residential development as adjudged by the Planning Commission and Council. Screening facilities shall not obscure traffic visibility within fifty feet of an intersection.

J. Common Open Space. A minimum of twenty-five percent (25%) of the land in any planned residential development shall be reserved for permanent common open space and recreational facilities for the residents or users of the area being developed. Only areas having minimum dimensions of 50 feet by 100 feet shall qualify for computation as usable open spaces.

K. Parking Requirements. See Article 1159 for off-street parking requirements.

L. Signs. See Article 1161 for size and location of permitted signs.

7.11. PMH Planned Manufactured Home Residential District

A. Policies Underlying Use of Zone. This district is intended to permit the development of Manufactured Home Parks in association with other residential development types while maintaining a reasonable population density and by providing for the unique requirements for this type of development. The provisions of this district are established to assure that the' site design and arrangement in relation to other areas together with the provision of associated facilities result in an attractive, orderly and efficient residential environment of sustained desirability in harmony with adjacent areas.

B. Permitted Uses. Manufactured Home Parks.

1. Manufactured homes (not self-propelled vehicles).

2. Modular or sectional homes.

C. Accessory Uses.

1. Coin-operated laundry, laundry and dry cleaning pick-up stations for use of tenants only. No external sign of any nature whatsoever shall be permitted.

2. Other accessory uses, buildings or structures customarily incidental to the aforesaid use.

3. On-site manufactured home sales. The sale of manufactured homes within a manufactured home park or subdivision shall be a special use having one year duration. Said use shall be reviewed at the end of the first year for possible extension for an additional year, in total representing a maximum two (2) year duration. Such sales areas shall be well screened from the residential section of the park or subdivision and shall be located at the periphery of the site. All signs used for advertising shall be unobtrusive to the surrounding property.

4. Neighborhood commercial facilities. In manufactured home parks fifty (50) acres or more, neighborhood commercial facilities such as markets, barbers, beauty shops, doctor's office, etc. may be planned in conjunction with a manufactured home park but may not be physically occupied until the park is seventy-five percent (75%) occupied by residents.

D. Minimum Floor Area. Individual manufactured homes located within the PMF1 District shall have a minimum floor area of six hundred (600) square feet.

E. Area Requirements. Each manufactured home park shall have a minimum gross site area of 10 acres.

F. Density Requirements. Gross density for a manufactured home park shall not exceed seven (7) dwelling units per acre.

G. Utilities.

1. Public utilities. Each manufactured home park shall be served by public water and sewer systems.

2. Underground utilities. In each manufactured home park, all wires, cables, and lines providing telecommunication, including cable television, and electric utility services and connections of such utility systems to buildings and light poles in such parks, shall be located underground.

3. Manufactured home parks shall meet the requirements of the Ohio Sanitary Code adopted by the Public Health Council under the authority of Ohio Revised Code.

H. Streets and Pedestrian Ways.

1. Access. Each manufactured home park shall have direct access to a principal County, Township, Municipality, or State highway or arterial street or road.

2. Streets.

a. Streets should be adapted to the topography and should have suitable alignment and gradient for traffic safety, satisfactory surface and groundwater drainage, and proper functioning of sanitary and storm sewer systems.

b. Flexible pavement. The required base should be a minimum of eight (8) inches thick and composed of crushed stone, gravel, or other appropriate durable material compacted to the practical maximum density. The wearing surface should be bituminous concrete a minimum of one and one-half(11h) inches thick compacted to the maximum practical density.

c. Rigid pavement. Where Portland cement concrete is used, it should not be less than five (5) inches thick on a prepared sub-grade constructed in accordance with accepted practices, with expansion joints where driveways and walks abut each other or the curb.

d. The minimum pavement width of interior one-way streets with parking permitted on one side shall be twenty (20) feet. The minimum width of two-way streets with parking permitted on one side shall be thirty (30) feet. The minimum width of two-way streets without parking permitted shall be twenty (20) feet.

I. Landscaping. In all manufactured home parks, the following landscape provisions shall apply.

1. Along each property line, and within the fifty (50) foot setback area, there shall be provided screen fencing, landscape planting or a landscaped berm or a combination thereof which shall be so designed or planted as to he twenty-five percent (25%) or more opaque when viewed horizontally between two (2) feet and (8) feet above average ground level.

2. Trees of at least one (1) inch caliber shall be installed on both sides of all streets within the manufactured home park at a spacing of fifty (50) feet between trees.

J. Setback Requirements. The following setback requirements for all manufactured homes located in a manufactured home park shall apply.

1. From all perimeter lot lines - 50 feet.

2. From any manufactured home located in the manufactured home park - 15 feet.

3. From any community building - 50 feet.

4. From any public or private street located within the park - 15 feet.

K. Required Open Space. A minimum of ten (10) percent of the gross site area shall be set aside and reserved for usable open space_ Said open space shall be in one or more parcels, not less than one (1) acre each. The minimum dimension of said open space shall be two hundred (200) feet in any direction. For the purposes of this section, "usable open space" shall be construed to mean parks,

common open areas, and areas containing a combination of community service buildings (clubhouses, swimming pools, etc.) and outdoor recreation areas.

L. Parking Requirements. Two paved, off-street parking spaces having a minimum area of 200 square feet shall be provided for each manufactured home site. Said parking space shall be located either on the manufactured home site, behind the front setback area, or in a common parking area within the manufactured home park.

M. Signs. Signs within the manufactured home development shall be limited to a name plate attached to each manufactured home, which is no larger than one (1) square foot, directional signs indicating the location of utility buildings, including management office, parking areas and common recreation areas, and traffic control signs.

N. Miscellaneous Requirements.

1. Lighting. Appropriate lighting shall be provided along all interior roadways, and walkways. All lights shall be so positioned and shaded to avoid a glare on adjoining properties.

2. Drainage. Each manufactured home space shall be so constructed to provide adequate storm water drainage from ramps, patios, and all walls and foundations of the manufactured home to the roadway.

3. Fuel supply. Where fuel is stored in outdoor storage tanks, they shall he supported by a concrete base and screened from view of surrounding manufactured home spaces and the street.

4. Enclosed undercarriage. All manufactured homes located in manufactured home parks shall be enclosed from the bottom of the structure to the ground.

5. Refuse containers. All refuse containers shall be screened from view of surrounding manufactured homes spaces and the street.

7.12. PRVP Planned Recreational Vehicle Park District

A. Policies Underlying Use of Zone. This district is intended to permit the development of Recreational Vehicle Parks within suitable locations of the Village. The provisions of this district are

established to assure that the site design and supporting services are properly planned and constructed to result in a development which will sustain the health and safety of its patrons as well as harmonious with its adjacent environment.

B. Permitted Uses.

1. Travel trailers.

2. Motor homes.

3. Camping trailers.

4. Pick-up coaches.

5. Other vehicular accommodations used for travel, vacation and recreational purposes.

6. Tents.

C. Accessory Uses.

1. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to operation of a recreational vehicle park and campground.

2. Stores, restaurants, beauty parlors, barber shops, and other convenience establishments in developments of fifty (50) acres or more; subject to the following restrictions.

a. Such establishments and the parking areas primarily related to their operations shall not occupy more than ten percent (10%) of the area of the park.

b. Such establishments shall be restricted in their use to occupants of the park.

c. Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.

D. Site Characteristics.

1. Minimum area shall be twenty-five (25) acres.

2. Site conditions. Proposed RV parks shall be located in such areas within which the condition of soil, groundwater level, drainage, and/or topography shall not create hazards to the

property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, or erosion shall be used for any purpose which would expose persons or property to hazards.

3. Location and access. RV parks shall be so located that no entrance or exit from a park shall discharge traffic into any residential district nor require movement of traffic from the park through a residential district. An RV park shall have a minimum of one hundred fifty (150) feet of frontage on a public street.

E. Developmental Standards.

1. Density. RV parks shall contain no more than twenty (20) campsites per acre for rental facilities and twelve (12) campsites per acre for own-your-own facilities.

2. Campsite size. Each campsite shall contain no less than 1500 square feet for rental facilities and 3600 square feet for own-your own facilities.

3. Required separation between RVs. RVs shall be separated from each other and from other structures by at least fifteen (15) feet. Any accessory structure such as attached awnings, carports, or individual storage facilities shall, for purposes of this separation requirement, be considered to be part of the RV.

4. Campsite construction. Each campsite shall contain a stabilized vehicular parking pad of gravel, paving, or other suitable material. No part of a RV or other unit placed on a campsite shall be closer than five (5) feet to a campsite line.

5. Recreation facilities. A minimum of twenty (20) percent of the gross site area shall be set aside and utilized as common use areas for open or enclosed recreation facilities. No campsite, required buffer strip, street right-of-way, storage area, or utility site shall be counted as meeting recreational purposes.

6. Perimeter yard and screening requirements. Each RV park shall set aside along the perimeter of the district the following areas which shall be landscaped and used for no other purpose.

a. Minimum campground front setback - twenty-five (25) feet except when park fronts on a state highway; then the minimum shall be fifty (50) feet.

b. Minimum side setback - when abutting residential districts, the side setback shall be fifty (50) feet; when abutting a dedicated public right-of-way, the side setback shall be twenty-five (25) "feet on the side street; when abutting any other zone district, the side setback shall be fifteen (15) feet along the interior lot line. These setbacks are minimum and are subject to review for each individual proposal.

c. Minimum rear setback - fifteen (15) feet except when the rear yard abuts a dedicated public right-of-way, the minimum shall be twenty-five (25) feet. If the rear yard abuts a residential district, the minimum rear setback shall be fifty (50) feet. These setbacks are minimum and are subject to review for each individual proposal.

d. Screening - where needed to enhance aesthetics or to insure public welfare, the RV park shall be enclosed by a fence, wall, landscape screening, earth mounds, or by other designs approved by the Planning Commission which will compliment the landscape and assure compatibility with the adjacent environment.

e. Fencing - between the campground and any private property a non-climbable-fence at least six (6) feet tall shall be constructed.

7. Parking requirements. There shall be at least three (3) off-street parking spaces designated in the park for each two (2) campsites. Off-street parking may be provided in common parking areas or on individual campsites.

8. Street requirements. Streets in RV parks shall be private, but shall be constructed with a stabilized travelway (gravel, paving, or other suitable material) and shall meet the following minimum stabilized travelway width requirements.

a. One way, no parking: 11 feet.

b. One way with parking on one side or two way with no parking: 18 feet.

c. Two way with parking on one side: 27 feet.

d. Two way with parking on both sides: 34 feet.

9. Access requirements.

a. Entrances and exits to RV parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic in adjacent streets. All traffic into and out of the park shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. No material impediment to visibility shall be created or maintained which obscures the view of an approaching driver in the right lane of the road within 100 feet where the speed limit is 45 miles per hour or 150 feet, where the speed limit exceeds 45 miles per hour, of any portion of the approach lane of the access way within 25 feet of its intersection with the right hand lane of the street.

b. Entrance driveways shall be located not closer than 150 feet from the intersection of public streets.

10. Drainage requirements. Surface drainage plans for the entire tract shall be reviewed by the Village Engineer who shall determine whether the proposed plan is compatible with the surrounding existing drainage plan, prior to issuance of final site plan approval and development permits. No such permit shall be issued in such instances where the Village Engineer finds the plan to be incompatible with surrounding areas.

11. Soil and ground cover. Exposed ground surface in all parts of the RV park shall be paved, or covered with stone screenings, or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

F. Utilities and Public Services.

1. Water supply.

a. The water supply shall he designed, constructed, and maintained in compliance with Ohio Environmental

Protection Agency regulations and recommendations to provide a safe, potable, and adequate supply of water.

b. The water supply shall deliver the following minimum volumes.

(i) gallons per day per campsite with individual water connections and where flush toilets are used in the camping vehicle or in the service building.

(ii) gallons per day per campsite where faucets are provided in common and centralized flush toilets in a service building are used.

(iii) gallons per day per campsite where faucets are provided in common and privies are used.

(iv) gallons per day per picnic site or five gallons per person per day in recreational areas with common faucets and flush toilets.

(v) Three gallons of water per person per day in a picnic or recreational area with common faucets and privies.

c. Water service lines, riser pipes, and valves shall be installed and protected from damage by freezing, ground movement, vehicles, or other damage sources. Shut-off valves and drain valves, installed for draining the system, and the water service distribution lines shall be so arranged that water wm be available to those campsites being occupied during low temperature winter periods. Underground waste valves are not permitted and shall not be installed on any water service.

2. Sewage disposal.

a. Facilities shall be provided and properly maintained for the collection and disposal or treatment and disposal of sewage in compliance with Ohio Environmental Protection Agency regulations and recommendations.

b. Where a public sewer system is available, all plumbing fixtures, building sewers, and campground

sewers shall be connected thereto. If a public sewer system is not available, a private sewage collection and disposal facility meeting requirements of the Ohio Environmental Protection Agency, the Montgomery County Health Department, and other applicable local government sewage disposal requirements shall be installed and an building sewers and campground sewers connected thereto.

c. Solid and liquid wastes shall not be discharged or otherwise disposed of on the surface of the ground or into any well, open ditch, stream, lake, or reservoir.

3. Refuse disposal.

a. The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents, or other nuisance conditions.

b. Durable, watertight, easily cleanable refuse containers, sufficient to contain all the refuse, shall be provided at each service building and sanitary waste station, or at a central storage area readily accessible and located not more than 300 feet from any camp or picnic site unless provided at the campsite. Refuse containers shall be provided at the rate of eight cubic feet (60 gallons) for each five campsites or the equivalent thereof if containers are provided at individual sites.

c. Unless refuse is collected daily, the containers shall be covered with close-fitting, fly-tight covers.

d. Refuse shall be collected and removed from the premises as often as necessary, but not less than once weekly during the campground occupancy, and disposed of at a lawful disposal site.

4. Safety.

a. All electrical wiring, equipment, and appurtenances shall be installed and maintained in accordance with provisions of the current edition of the National Electrical Code.

b. Liquid petroleum gas, fuel oil, gasoline, and other flammable liquids shall be handled and used in a safe

manner and shall not be stored inside or beneath any camping vehicle or within five feet of a door of a camping vehicle.

c. The grounds, buildings, and related facilities shall be constructed, maintained, and used in accordance with applicable local and state fire prevention regulations.

7.13. PC Planned Commercial District

A. Policies Underlying Use of Zone. This district is provided in recognition that many commercial establishments seek to develop within unified commercial areas, usually under single ownership and control, and typically called "shopping centers". Within the premises of the zone, such centers would have all necessary services and facilities comprehensively provided in accordance with an approved development plan. Provisions of this zone are formulated to achieve harmoniously designated structures upon a well landscaped site, achieving a high degree of pedestrian-vehicular separation, all of which would be compatible with surrounding land uses.

B. Permitted Uses. Those uses included as permitted and accessory uses in C-1 and 0-I Business Districts.

C. Arrangement of Commercial Uses. Commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares.

The plan of the project shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding existing or potential developments.

D. Area Requirements. The minimum land area for a Planned Commercial Development should be two (2) acres.

E. Structure Spacing. A setback of fifty (50) feet shall be provided along the entire perimeter of the development, except where it adjoins a Business or Industrial District in which case setback and screening requirements shall be at the discretion of the Planning Commission. Where situated adjacent to a residentially zoned area, a minimum of twenty (20) feet along the exterior property line shall be planted with an evergreen hedge or dense planting of evergreen

shrubs not less than four (4) feet in height at the time of planting. Screening facilities shall not obscure traffic visibility within (50) feet of an intersection.

Vehicular access through such landscaped strip when adjacent to residential areas shall be permitted only for convenience of residents of adjoining residential areas, and not for use by the general public.

F. Parking and Loading Requirements. See appropriate section of the Code.

G. Signs. See Article for size and location of permitted signs.

7.14. Planned Industrial District

A. Policies Underlying Use of Zone. The provisions of this district are provided in recognition that many industrial establishments seek to develop within unified industrial areas having all necessary services and facilities comprehensively provided in accordance with a predetermined development plan. As in the Planned Commercial Zone, provisions of this zone are formulated to encourage a high degree of coordinated development upon well landscaped premises. Particular attention is devoted to design of the periphery of the development with the objective of compatibility with surrounding land uses.

B. Permitted Uses. Those uses included as permitted and accessory uses in the I-I Industrial District.

C. Arrangement of Industrial Uses. A planned industrial area shall provide for the harmony of buildings and a compact grouping in order to economize in the provision of such utility services as are required. Thoroughfares shall be kept to a minimum throughout a planned industrial area in order to reduce through traffic.

D. Area Requirements. The minimum land area for a Planned Industrial Development shall be ten (10) acres.

E. Structure Spacing. A minimum of fifty (50) feet shall be required between adjacent buildings.

F. Setback and Screening. A setback of one-hundred (100) feet shall be provided along the entire perimeter of the development, except where is adjoins a Business or Industrial District in which case setback and screening requirements shall be at the discretion of the Planning Commission. Where situated adjacent to a residentially zoned area, a minimum of thirty (30) feet along the exterior property

line shall be retained in natural woods, or be suitably landscaped with a dense planting of evergreens not less than four (4) feet in height at the time of planting. Such landscaping shall be fifty (50) percent or more opaque when viewed horizontally between two (2) feet and eight (8) feet above average ground level. A suitably designed fence or wall may be substituted for such screen plantings at the discretion of the Planning Commission, if in certain cases natural plantings are deemed infeasible. Screening facilities shall not obscure traffic visibility within fifty (50) feet of an intersection.

G. Parking and Loading Requirements. See Article 9.

H. Signs. See Article 10.

7.15. Submission Requirements for Planned Development Proposals.

A. Preliminary Plan Stage.

1. Application. An application for a preliminary planned unit development shall be filed with the Zoning Administrator by at least one owner or lessee of property for which the planned unit development is proposed. At a minimum, the application shall contain the following information filed in triplicate:

a. Name, address, and phone number of registered surveyor, registered engineer, and/or urban planner assisting in the preparation of the preliminary development plan.

b. Name, address, and phone number of applicant.

c. Legal description of property.

d. Description of existing use.

e. Zoning district(s).

2. Material to be submitted with applications.

a. Identification of all property owners within the proposed district, evidence of unified control of the entire area of the district, tentative agreement of all owners to proceed with development according to plans, and timing schedule approved if the proposed amendment is passed, and to bind their successors in title to abide by any final commitments made, and

evidence of financial capability to complete the development according to plan or the provide adequate sureties for completing.

b. A map or maps indicating the relation of the proposed district to the surrounding area. As appropriate to the development proposed, such maps or maps shall demonstrate access to major streets, and show the approximate location and sizes of existing public sewers, water lines and storm drainage systems and other utility systems and installations which will be expected to serve the development. In the case of planned developments, to contain housing; location of schools and nearby commercial facilities shall be indicated.

c. Topographic data map drawn to a scale of 100 feet to one inch by a registered surveyor and/or engineer showing.

(i) Boundary lines - bearings and distances,

(ii) Easements - location, width, and purpose,

(iii) Wooded areas, streams, lakes, marshes, and any other physical conditions affecting the site,

(iv) Ground elevations on the tract for land that slopes less than one-half (112) percent, show one (1) foot contours; for land that slopes more than one-half percent (.05%), show two (2) foot contours,

(v) If deemed necessary, subsurface conditions on the tract, including the location and results of tests made to ascertain the conditions of subsurface sail, rock and groundwater, and the existing depth of groundwater.

3. A preliminary development plan and report, with maps at a scale of 100 feet or less to the inch, including as appropriate to the proposed development, the following information, presented in generalized form.

a. Proposed land uses and appropriate height, bulk and location of principal structures sufficient to permit an understanding of the style of the development. Proposals containing residential units shall specify the

number of housing units by size and type proposed within the initial phase of the proposal or within the overall development if the development is not to be staged.

b. Proposed automotive and pedestrian circulation patterns, including streets by type (major, collector, or minor) width, public or private, and pedestrian ways. Existing or plotted streets proposed to be vacated.

c. Major off-street parking areas.

d. Proposed parks, playground school sites, pedestrian parkways and other major open spaces as well as the general form of organization proposed to own and maintain any common open space.

e. General location of utilities, installations and easements.

f. If development is to be in stages, indication as to the order and timing of development, and demonstration that each stage, when completed, would compliment any completed earlier, and would form a reasonably independent unit even though succeeding stages were delayed.

g. Proposals for expediting provision of public facilities, utilities or services where lacking or unlikely to be available when needed for the planned development, or for providing suitable private facilities, utilities or services. A report shall be provided, if appropriate, in a particular development containing proposals for improvement and continuing maintenance and management of any private streets.

h. The substance of covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements of grants for public utilities.

B. Final Plan Stage.

1. Final Development plans and reports shall include.

a. A map or maps in the form required by the Subdivision Regulations, with such modifications and additions as required concerning such items as

building sites when used as a substitute for lots, common open space not dedicated for public use, and other matters as appropriate to planned developments generally or to the specific planned development. Similar modifications of standards contained in the Subdivision Regulations or in other regulations or policies applying generally may be reflected in such maps and report if the Planning Commission shall find and shall certify, after consultations with other agencies of government as appropriate in the specific case, that the public purposes of such regulations or policies are as well or better served by specific proposals of the final plan and reports.

b. A general site and land use plan for the planned development as a whole, indicating sub-areas for phased development if any, and showing location and use of structures and portions of structures in relation to building site lines, building sites reserved for future use and uses for which sites are reserved, automotive and pedestrian circulatory networks, principal parking areas, open space not in building sites and use for which it is intended, and such other matters as are required to establish a clear pattern of the relationships to exist between structures, uses, circulation and land.

2. Agreements, contracts, deed restrictions, and sureties. The applicant shall guarantee the installation of the public improvements specified in the Final Development Plan through one of the following methods.

a. Filing a performance and labor and material payment bond in the amount of 110% of the estimated construction cost as determined by the Village.

b. Depositing or placing in escrow or certified check, cash, or other acceptable pledge, in the amount of 110% of the construction cost as approved by the Village.

C. Subdivision Plat Required. No zoning certificate shall be issued for any structure in any portion of a Planned Development unless and until the final subdivision plat for that portion has been approved by the proper planning authority and recorded in the public record of the County.

This requirement may be waived by the Planning Commission when it is deemed that a subdivision plat is not required.

The applicant may request that the subdivision process and the Zoning approval process be combined. Planning Commission and Council may vary the subdivision requirements by approval of a zoning and subdivision plan as part of a planned Development approval process.

ARTICLE 8 SUPPLEMENTARY REGULATIONS

8.01. **General Provisions**. The supplementary regulations within Article 7 of this zoning ordinance are applicable to all zoning districts within the Village of Phillipsburg unless otherwise specifically modified by the requirements of a zoning district.

8.02. **Required Conformance**. Except as herein provided, no building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building, structure, or land be used within the Village of Phillipsburg.

A. Except for a purpose expressly permitted in the zoning district in which such building or structure or land is located;

B. Except in conformance with the district regulations of this zoning ordinance, including the height and bulk limits and yard and lot requirements established for the district in which such building or structure or use is located;

C. Except in conformance With the supplementary regulations of this zoning ordinance pertaining to such building or structure or use;

D. Except in conformance with the off-street parking and off street loading space regulations of this zoning ordinance pertaining to such building, structure, or use;

E. Except in conformance with the sign regulations of this zoning ordinance pertaining to such building. structure, or use; and

F. Except in conformance with the nonconformities regulations of this zoning ordinance pertaining to such building, structure, or use.

8.03. **Reduction of Area or Space**. No lot, yard, court, parking area, or other space shall be reduced in area or dimension, thus making said area or dimension less than the minimum required by this zoning ordinance and, if said area or dimension is already less than the minimum required by this zoning ordinance, it shall not be further reduced.

8.04. **Uses Not Specifically Mentioned Within Districts**. Any use of land, a structure, or a building which is not specifically mentioned as a permitted principal, permitted accessory, or conditional use within any zoning district shall not be permitted by the Zoning Inspector until it is determined by the Board of Zoning Appeals that such use is similar and compatible to uses permitted within such district. In determining if such uses are similar and compatible, the process outlined under Article 12, Section 12.03 for appeals shall be followed.

8.05. **Public Street Frontage Required**. No new lot shall be created nor shall any building be erected upon a lot which does not possess the required minimum frontage upon a public street established for the district in which such lot is located.

8.06. **Principal Buildings Per Lot**. Not more than one (1) principal building or structure may be constructed upon any one (1) lot for the purposes of this zoning ordinance, The construction of more than one (1) principal building or principal structure upon any one (1) lot shall require either the approval of a Planned Development or a variance from the Board of Zoning Appeals.

8.07. **Lots Adjoining Alleys**. For the purposes of applying the lot area requirements of this zoning ordinance, one-half (1/2) the width of such alley shall be used in calculating the area of such lot. For the purposes of calculating setback requirements. the line separating the alley from the lot shall be used.

8.08. **Front Yards Required For Corner Lots and Through Lots**. On all corner lots and all through lots, the principal building and all accessory structures shall be required to have the same setback from all street right-of-way lines as required for the front yard in the applicable zoning district.

8.09. **Architectural Projections Into Required Yards**. Architectural projections may project into a required yard in accordance with the following provisions.

A. Front and Rear Yards. Chimneys, flues, sills, pilasters, cornices, eaves, gutters, and other similar architectural features may project into a required front yard a maximum of thirty-two (32) inches.

B. Side Yards. Chimneys, flues, sills, pilasters, cornices, eaves, gutters, and other similar architectural features may project into a required side yard a maximum of sixteen (16) inches.

C. Porches and Steps. Unroofed porches and steps may extend from the dwelling into a required front yard or required rear yard a maximum of ten (10) feet. Open structures such as roofed porches, canopies, balconies, decks, platforms, and carports, shall be considered parts of the building to which attached and shall not project into any required yard.

D. Improvements Required By Americans With Disabilities Act. Decisions of the Board of Zoning Appeals regarding architectural projections required for persons with disabilities that necessitate encroachment into any required front, side, or rear yard shall be based upon the American With Disabilities Act (ADA) Accessibility

Guidelines for Buildings and Facilities (36 CFR Part 1191), as amended.

8.10. **Exceptions To Height Limitations For Non-Habitable Structures**. Chimneys, domes. spires, belfries, cupolas, antennas, water tanks, ventilators, or other similar necessary mechanical appurtenances usually required to he placed above the roof level and not intended for human occupancy may exceed the maximum height requirement for the zoning district in which the property is located, subject to the following provisions.

A. Maximum Height Permitted. The maximum height of such structure shall not exceed fifty (50) feet in total height within any residential district and shall not exceed ninety (90) feet in total height within any other type of district. Any greater overall height than those stated above shall be considered a conditional use and shall require approval by the Board of Zoning Appeals after public hearing.

B. Required Setback From Residential Lots. Structures and/or appurtenances granted an exception shall be set back a distance equal to or greater than its height from any boundary of a residential lot within a residential district.

C. Aircraft Hazard Prohibited. Structures and/or appurtenances shall not be granted an exception to the maximum height regulations where it is determined that a hazard will be created for the safe landing and takeoff of aircraft at an established airport or landing strip, as determined by applicable federal, state, and local agencies.

8.11. **Accessory Buildings In Residential Districts**. Accessory structures within residential districts shall comply with the following requirements.

A. No private garage or other accessory building shall be located closer to any street right-of-way than the principal building.

B. No private garage or other accessory building shall be located closer than ten (10) feet to the principal structure or closer than five (5) feet to any lot line.

C. The maximum gross floor area of any private garage or other accessory building shall not exceed the following.

1. Eight hundred (800) square feet for a single-family or two-family dwelling.

2. Four hundred (400) square feet per dwelling unit for a multiple-family dwelling.

3. Two hundred (200) square feet for all accessory buildings other than private garages.

D. Accessory buildings shall not be located over any required leaching area or replacement area for an on-site wastewater disposal system designated by the Montgomery County Health Department or Ohio Environmental protection Agency, as applicable.

8.12. Private Accessory Swimming Pools

A. Purposes; Application Of Article. This chapter is enacted to provide regulations for the construction and operation of swimming pools. It is applicable to bodies of water used for swimming or recreational bathing and is not applicable to storm drainage retention or detention facilities authorized by the City Engineer. (Ord. 86-13. Passed 11-17-86.)

B. Definitions. As used in this chapter.

1. "Portable swimming pool" means any container designed or used for wading purposes, which container will not permit filling with water to a depth greater than eighteen inches. Such pool may be dismantled, stored or moved from one place to another without the use of tools, other than those normally found in a household workshop.

2. "Nonportable swimming pool" means any artificial body designed to contain eighteen inches or more of water or having more than 150 square feet of water surface area, whether in-ground or above-ground.

3. "Private swimming pool" means any pool intended and used solely for the enjoyment of the occupants of the principal use of the property on which it is located. A "hot tub" or "spa" constitutes a "private swimming pool" if it is designed to contain eighteen inches or more of water at any point.

4. "Public swimming pool" means any pool, other than a private swimming pool, which is provided with an approved water supply and is used by the public or is semipublic in character.

C. Lights. All lights used to illuminate the swimming pool or the surrounding areas shall be designed. located and installed to confine the direct beams to the lot or parcel on which the pool is located. The lighting shall not constitute a nuisance or undue annoyance to occupants of abutting property.

D. Drainage. All swimming pools shall be drained into a public storm sewer or street with storm drainage. No pool shall be drained onto adjacent properties.

E. Permits Required, Plans.

1. No person shall locate, construct or install a non portable swimming pool or make any alteration thereto without first submitting an application and plans to and obtaining a permit from the Zoning Administrator.

2. No permit shall be issued unless and until the plans and specifications have been approved as to structural safety and compliance with this chapter.

3. No person shall use. operate. repair or maintain a swimming pool in violation of any of the provisions of this chapter.

4. Swimming pools shall not be used until pool construction has been approved by the Division of Inspection.

5. The pool must meet the following conditions.

a. The pool may not be located closer than six (6) feet to any property line, and such location shall be in accordance with all pertinent provisions for accessory structures. Accessory buildings shall maintain the minimum side yard required. Any walks or paved areas adjacent to the pool shall he considered as patios for the purpose of this section and shall conform to the provisions for patios. Depth of the pool is determined by measuring the maximum height of any side of the pool.

b. The pool, or the entire rear yard of the property on which it is located, shall be walled or fenced to prevent uncontrolled access by children from the street or from adjacent properties. The following fences or walls shall be required.

(i) In-ground pools and permanent above-ground pools shall have a fence that is six feet high and maintained in good condition with a gate and lock.

(ii) Portable storable pools shall have a fence that is at least 42 inches high and maintained in good condition with a gate and lock. Portable

storable pools are defined as pools with inflatable walls. Portable storable pools shall be permitted as an accessory use between April 15 and October 15 of each year, and shall be removed from the yard and stored during the winter from October 15 to April 15.

(iii) Hot tubs and spas shall be required to have a secured cover and lock to prevent entry when not in use.

8.13. **Accessory Fences, Walls and Plantings.** fences, walls, and plantings shall be in accordance with the following requirements.

A. Fences or walls constructed within a side or rear yard shall not be higher than six (6) feet, except as specifically provided elsewhere in this zoning ordinance.

B. No fence, wall or hedge shall rise over two (2) feet in height within any required front yard. No fence, wall, or hedge shall interfere with visibility from a driveway. The zoning inspector is hereby empowered to cause the removal of all such obstructions in the interest of public safety.

C. Security fences within non-residential districts may not exceed eight (8) feet in height.

8.14. **Churches**. Churches or similar places of worship and their customary accessory uses shall be permitted only in accordance with the following requirements.

A. The minimum lot area shall be thirty thousand (30,000) square feet and the minimum lot width shall be one hundred fifty (150) feet. The lot area shall be adequate to accommodate the required off-street parking requirements of the church.

B. The church building shall be set back from any adjacent residential property line a distance equal to or greater than the height of the structure exclusive of the steeple or spire.

C. The church lot shall be accessible to a major thoroughfare in a manner that does not require the passage of traffic through local residential streets.

D. Accessory living quarters may be provided on the church lot. The location, density, and the additional lot area required for such accessory uses shall be subject to approval by Board of Zoning Appeals.

E. Adequate screening shall be provided along all property lines bordering residential lots.

8.15. <u>Trailers, Trucks, Recreational Vehicles, Boats, Farm Or Construction Equipment</u>.

A. <u>Definitions</u>.

1. "Trailer" means any receptacle or means of transport in which something is carried or conveyed or travels, moves on skids, wheels or runners, without its own motive power and is designed so that it can be drawn by other means of motive power. Trailers include, but are not limited to nonpowered recreational vehicles.

2. "Recreation vehicle" means a transportation structure, self-propelled or capable of being towed by a passenger car, station wagon or small pick up truck, of such size and weight as not to require any special highway movement permits and primarily designed or constructed to provide temporary movable living quarters for recreational, camping or travel use, or to carry such equipment but not for profit or commercial use. It shall not be a mobile home but shall include (although not limited to) the following defined types of recreational vehicles.

a. "Motor home" means a vehicular unit built on or as a part of a self-propelled motor vehicle chassis primarily designed to provide temporary living quarters for travel, camping, recreation and vacation use.

b. "Travel trailer" means a rigid structure, without its own motive power, designed as a temporary dwelling for travel, camping, recreation and vacation use.

c. "Camping trailer' means a folding or collapsible vehicular structure, without its own motive power designed as a temporary living quarters for travel, camping, recreation and vacation use.

d. "Truck camper" means a portable structure without its own motive power designed to be transported on a power vehicle as a temporary dwelling for travel, camping, recreation and vacation use.

B. Off-Street Parking In Residential Districts. Except for routine and normal deliveries and service vehicle, the off-street parking of commercial vehicles with load capabilities in excess of three (3)

tons shall not be permitted in any residential district. Further, no off-street parking in any residential zoning district shall be permitted for any trailer, recreational vehicle, boat (including jet skis and other personal watercraft), noncommercially licensed truck with a load capacity in excess of three (3) tons, inoperative or unlicensed motor vehicle, construction or farm equipment, or any vehicle designed or constructed to provide seating for more than nine (9) people except as follows (each such object is subsequently referred to as a "vehicle").

1. Any number of such vehicles may be parked off street in residential zoning districts as long as they are totally within an enclosed garage or accessory building. While parked within an enclosed garage or accessory building, all propane gas valves in such a vehicle shall be in a closed position.

2. To the extent there is no garage or accessory building on the premises that can accommodate the vehicle(s), such vehicle(s) may be parked outside in an interior side yard or rear yard but not in a corner lot side yard. The intent is to allow the owner of such vehicle(s) an option to park in his garage or in a suitable location as defined herein. Outside parking of the vehicle(s) shall be subject to the conditions set forth below.

    a. The area coverage of the vehicle(s) in respective zoning districts shall be as follows.

        (i) All Residential Districts, one (1) such vehicle may be parked outside.

    b. The vehicle shall be properly licensed and registered as required by the State of Ohio for highway use.

    c. No business may be conducted within the recreational vehicle while so parked except that a trailer may be used as a temporary office or shelter incidental to construction on or development of the premises on which the trailer is located (but only during the time such construction or development is actively underway).

    d. The vehicle may not be permanently connected to electricity, water, gas or sanitary sewer lines. A recreation vehicle may be connected to electricity temporarily for charging batteries and other purposes

as long as the receptacle and the connection meet requirements of the applicable Electrical Code.

e. The vehicle may not be used for dwelling purposes, except that a recreational vehicle owned by and under the control of someone who does not reside on the premises may be used for dwelling purposes by the visitor who has such control for a maximum of fourteen (14) days in any calendar year. This limit of fourteen (14) days applies to the residential real estate premises so that only fourteen (14) days of dwelling usage may take place on that premises in any calendar year, regardless of the number of different recreational vehicles that may be parked there (one at a time) during that year.

f. The vehicle may not be used for storage of goods, materials or equipment other than those items considered to be a part of the vehicle.

g. The vehicle shall be maintained in good repair.

h. The vehicle shall be parked on a continuous hard surface equivalent in strength to the existing driveway (although a gravel wearing surface is permitted so long as the base strength is provided). In order to allow convenient access for fire and safety personnel, no part of the vehicle may be closer than two (2) feet to the principal building.

i. The vehicle shall be maintained at all times in such a condition that it can be transported. For example, wheels shall not be removed, tires shall not be flat, and the vehicle shall not be fixed to the ground.

3. If the measurements or terrain of the side yard and back yard are such that neither one can accommodate the vehicle, or if there is no reasonable access to side or rear yard that can accommodate the vehicle, such a vehicle may be parked on the driveway in the front yard subject to the conditions listed below. A corner lot is always deemed to have reasonable access to the rear yard, and a fence is not necessarily deemed to prevent reasonable access. The conditions for such driveway parking in the front yard are as follows.

a. All of the conditions listed above as being applicable to outside parking in the side or rear yard shall also apply to parking in the front yard driveway.

b. In front yards, the vehicle shall be parked on the designated driveway.

c. No part of the vehicle may be closer than twelve (12) feet to the face of the curb.

d. No part of the vehicle may extend over the public sidewalk.

e. The vehicle may not impair a view of the right-of-way by persons on the right-of-way or about to enter it.

f. The wheels of such vehicle shall be chocked while parked.

4. A recreational vehicle may be parked on the street for purpose of loading, unloading and related activities for up to eight (8) hours in a twenty-four (24) hour period.

C. <u>Off-Street Parking In Commercial And Office Areas</u>.

1. Semis or semitrailers as defined in the Village ordinances shall not be parked outside on properties in commercial or office zoning districts except as provided below.

a. Semis or semitrailers may be parked in designated loading spaces on properties in a commercial or office zoning district provided the loading spaces meet the applicable requirements in the Code and are approved by the Village. Said parking of semis or semitrailers in the loading spaces shall not exceed a length of time reasonably necessary to load or unload the semis or semitrailers.

b. Semis may be parked in a parking lot on a property used for a restaurant, hotel, motel, moving service/lease company or filling station that provides fuel for semis as long as all the following conditions are met.

(i) A zoning certificate has been issued for the property showing the location of a designated parking space(s) for semis meeting the following requirements.

1) The designated semi parking space(s) shall be at least 15 feet in width by 80 feet in length and provide adequate area for ingress and egress;

2) The designated semi parking space(s) shall not be located in the front yard of the property;

3) The designated semi parking space(s) shall not adversely affect the traffic circulation in the parking lot;

4) The designated semi parking space(s) shall be clearly marked "FOR SEMI PARKING" and, the parking surface striped in accordance with all applicable Code Sections;

5) A semi(s) shall only be parked in designated semi parking space(s) and shall not be parked in any other required offstreet parking as required by the parking and loading regulations in the Code;

6) Semi parking space(s) and area used as ingress and egress shall be constructed of material and base able to support the daily use of semis as approved by the Village;

7) A semi(s) shall only be parked in designated parking space(s) on a business property while the operator or passenger is using the facilities on the business property;

8) Semi parking space(s) shall only be permitted on property(s) for a restaurant, hotel, motel, moving service/lease company, or filling station that contains at least one acre. Each business property shall have no more than five (5) semi parking spaces for each acre of the business property. In no case shall a business property have

more than ten (10) semi-parking spaces. Properties shall be prorated by acreage for the number of semi parking spaces as outlined in the following scale.

Required Minimum Acres	Number of Semi Parking Spaces Permitted
1 (43,560 sq. ft.)	5
1.2 (52,272 sq. ft.)	6
1.4 (60,984 sq. ft.)	7
1.6 (69,696 sq. ft.)	8
1.8 (78,408 sq. fl.)	9
2 (87,120 sq. ft.) or greater	10

For the purposes of this section, all parcels in common ownership and adjacent to the property on which the business is located shall be considered one property.

9) A filling station that provides fuel for semis is permitted to have semi(s) parked at a semi designated fueling pump(s) or parked waiting in line for the purpose of refueling, in addition to the number of semi parking spaces permitted in subsection 8 of this chapter.

(ii) The property must be a single tenant property. On properties with multi-tenants, including, but not limited to shopping centers or office buildings, the parking of semis shall be prohibited.

(iii) In the case of a hotel or motel, the operator of the semi has paid for an overnight stay at said motel or hotel and said semi shall be clearly marked with material provided by the motel or hotel establishment, with a date, on the inside windshield verifying paid status.

(iv) In the case of a moving service/lease company, said semi must be used as part of a moving service/lease company and shall be clearly marked as belonging to such moving service/lease company;

c. Semi tractors may be parked in a parking lot owned by and used for a sales company as long as the semitractors are owned and are for sale or lease by the concerned sales company.

2. Vehicles that are unlicensed or inoperative shall not be parked off-street and outside on properties in any Commercial or Office Zoning District

D. Fire Or Safety Regulations. Nothing in this chapter shall be construed to waive the application or to violate any safety or fire regulation applicable to the residential property involved.

8.16. **Game Arcades**. All game arcades within the Village of Phillipsburg shall be in accordance with the following provisions.

A. Hours of Operation. No game arcade shall open for business except between the hours of ten o'clock (10.00) a.m. through ten o'clock (10.00) p.m. on Monday through Saturday and one o'clock (1.00) p.m. through ten o'clock (10.00) p.m. on Sundays.

B. Use by Minors. No person under the age of eighteen (18) years may enter, be at, or remain in any part of a game arcade during such times as the Northmont School District is conducting its regular educational program.

C. Adult Supervision Required. Each game arcade shall have, at all times, an adult who is twenty-one (21) years of age or older on the premises who shall supervise the activities within the game arcade during its hours of operation.

D. Inside Operation Required. All game arcade operations must be conducted entirely within a completely enclosed building, and in accordance with all applicable fire code requirements.

E. Relation to Other Laws. All game arcades and the machines employed thereby shall comply with all federal, state, and local laws.

8.17. **Home Occupations**. All home occupations within the Village of Phillipsburg shall be in accordance with the following provisions:

A. No person or persons shall operate a home occupation or be employed thereunder other than a resident of the premises;

B. The home occupation shall be conducted entirely within the dwelling unit, and 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. Not more than twenty-five percent (25%) of the gross floor area of any dwelling unit shall be used for a home occupation;

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the building in which the home occupation is located;

D. There shall be no sale on the premises of commodities not produced as the result of the home occupation;

E. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials shall be used or stored on the site;

F. In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 10:00 p.m.;

G. No advertisement shall be placed in any media containing the address of the property;

H. Not more than one (1) vehicle nor any commercially licensed vehicle larger than a one (1) ton truck shall be used in connection with any home occupation;

I. No vehicular or pedestrian traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this zoning ordinance, and shall not be located in a required front yard;

J. Equipment or processes shall not be used in such home occupation which create noise, vibrations, glare, fumes, odors, or electrical interference detectable off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, television receiver, or causes fluctuations in voltage outside of the dwelling unit;

K. The following uses may be permitted as home occupations provided they conform to the provisions noted above.

1. Architectural and/or engineering service

2. Artist Studio

3. Baby sitting, up to three (3) children

4. Consulting services

5. Contracting

6. Data Processing

7. Dental technician with laboratory

8. Direct sale product distribution of personal care and small household items (Amway, Avon, Jaffra, Tupperware, Herbalife)

9. Drafting and graphic design services

10. Dressmaking, sewing, tailoring, contract sewing (one machine)

11. Electronic assembly

12. Financial planning and/or investment services

13. Flower arranging

14. Gardening and/or landscape maintenance

15. Home cooking and preserving for sale off site

16. Home crafts such as ceramics, model making, rug weaving, and cabinet making

17. House cleaning service

18. Insurance sales or broker

19. Interior design

20. Jewelry making and repair

21. Laundry and/or ironing service

22. Locksmith

23. Mail order (not including retail sales from site)

24. Millinery

25. Real estate sales or broker

26. Sales representative (office only)

27. Telephone answering, switchboard, or call forwarding services

28. Tutoring, limited to one student at a time

29. Typing and word-processing service

30. Watch repair

31. Writing and/or computer programming

L. The following uses, by the nature of the investment or their operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, the uses specified below shall not be permitted as home occupations.

1. Appliance repair

2. Automobile repair station, parts sales, upholstery, or detailing

3. Automobile washing service (including businesses working at customers homes)

4. Beauty salon and barber shop

5. Carpentry and/or cabinet maker shop

6. Ceramics, (kiln of six (6) cubic feet or more)

7. Church

8. Construction service such as masonry, plumbing, or painting

9. Gift shop

10. Health salon, gym, dance studio, aerobic exercise studio, massage

11. Limousine or Pedi cab service

12. Medical or dental office

13. Mortician and/or hearse service

14. Palm reading and fortune telling

15. Photo studio

16. Private club

17. Rental business

18. Restaurant and/or tavern

19. Retail sale from site (except direct distribution)

20. Skin care

21. Small engine repair

22. Tow truck service

23. Upholstery repair

24. Veterinary uses, including care, grooming, or boarding

25. Welding shop

8.18. **Junk Vehicles**. All junk vehicles stored or parked within the Village of Phillipsburg shall be in accordance with the following provisions.

A. Outdoor Storage Prohibited. No person in charge or control of any property within the Village of Phillipsburg, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any junk vehicle to remain on such property outside of a completely enclosed building.

B. Business Use of Junk Vehicles. No business shall be conducted in connection with any parked or stored junk vehicle, except authorized junk yards, scrap metal processing facilities, and automobile repair stations.

C. Required Screening of Junk Vehicles. Authorized junk yards, scrap metal processing facilities, and automobile repair stations shall be

exempted from Section 7.17 (A) insofar as all junk vehicles are completely screened from public streets and adjoining properly. Such screening shall consist of mounding, fence, wall, and/or vegetation. Any screening shall be in accordance with the following requirements.

1. Fences or walls shall be neatly constructed of opaque material;

2. Vegetation and/or mounding shall be designed and grown to an opaque state and maintained as such;

3. It shall not be less than six (6) feet in height above grade;

4. It shall be maintained in a condition so as to insure its opaqueness; and

5. It shall not contain advertising.

8.19. **Child Care Nurseries**. Ali child care nurseries within the Village of Phillipsburg shall be in accordance with the following provisions.

A. Thoroughfare Access. The site shall be accessible to a major thoroughfare so as not to create excessive traffic on local residential streets.

B. Required Play Area. An outdoor play area shall be required. The minimum size of such play area shall be no less than two-hundred (200) square feet per each child. The minimum width or depth of such play area shall be twenty (20) feet. Such play area shall also be completely enclosed by a fence or wall a minimum of forty-two (42) inches in height.

C. Required Screening. The required play area shall be screened along all sides which are within fifty (50) feet of a lot within a residential district. All sides of the parking lot which face any dwelling or residential district shall be screened.

D. Maximum Enrollment. The Board of Zoning Appeals may establish a maximum enrollment based upon neighborhood impact.

8.20. **Required Screening**. Screening shall be required between zoning districts as specified within this section. Where specific screening provisions are required for land uses within other sections of this zoning ordinance, the more restrictive provisions shall apply.

A. Screening Required. Hereafter, no buildings or structures shall be erected, altered or enlarged nor shall land be used for any non-

residential use on a lot that adjoins or faces any residential district until a plan for screening has been submitted and approved by the Zoning Inspector, the Planning Commission, or the Board of Zoning Appeals, as appropriate.

B. Purpose for Screening. Screening shall be provided for one (1) or more of the following purposes.

1. A visual barrier to partially or completely obstruct the view of structures or activities in order to minimize or prevent nuisances;

2. As an acoustic screen to aid in absorbing or deflecting noise; and/or

3. For the containment of ambient debris and litter.

C. Types of Screening Permitted. Screening may be one (1) of the following or a combination of two (2) or more.

1. A solid masonry wall;

2. A solidly constructed decorative fence;

3. A louvered fence;

4. Dense evergreen plantings; and/or

5. Landscaped mounding with ground cover.

Such screening shall be of -sufficient density or opaqueness to accomplish the purposes for screening previously stated in paragraph B.

D. Location of Screening. Whenever any non-residential use is located upon a lot that abuts a residential zoning district, a visual screening wall, fence, mounds or planting shall be erected or placed along such mutual boundary lines. Such screening shall also be required where a multiple-family building is located upon a lot abutting a single-family residential district.

E. Height of Screening. Visual screening walls, fences, mounds and plantings shall be not less than 66 (sixty-six) inches high. The height of screening required in front yards shall be two (2) feet, unless the Zoning Inspector determines that a sight-distance hazard would be created.

F. Mounding Specifications. Mounding provided in lieu of or in combination with walls, fences, and/or evergreen plantings shall consist of a strip of land as wide as necessary to obtain a maximum slope of three (3) horizontal to one (1) vertical (angle of repose) for the required height. Mounding shall be planted with a ground cover suitable to prevent erosion.

G. Required Depth for Noise Screening. Screening for the purpose of absorbing or deflecting noise shall have a depth of at least fifteen (15) feet of mounding with plantings or ground cover or be a solid masonry wall in combination with decorative plantings.

H. Protection and Maintenance of Screening. Whenever required screening is adjacent to parking areas or driveways, such screening shall be protected by bumper blocks, posts or curbing to avoid damage by vehicles. All screening shall be trimmed and maintained in good condition and remain free of all advertising or other signs. Live vegetation used for screening shall receive regular maintenance, including trimming, mowing, and replacement of diseased plant materials.

8.21. Excavations And Dumps.

A. Prohibitions; Exceptions.

1. Upon the enactment of this provision, no new excavations or earth removal for the purpose of removing gravel or other natural products shall be carried on in any district except when used on the property where excavated unless the same is permitted by the Board of Zoning Appeals, subject to such conditions and safeguards as it may determine for the protection of the health, morals, safety and general welfare of the people of the Village.

2. The opening of any new excavation; the removal of earth for the purpose of excavating gravel or other natural deposits; and the erection of any building or structure for the processing, treating or refining of gavel or other natural deposits, within 300 feet of any residential district, is hereby declared to be detrimental to the health, morals, safety and general welfare of the people of the Village and shall not be permitted.

3. Dumping of refuse or waste matter and/or the burning of such shall be prohibited in any district unless such use existed at the time of the enactment of this provision, and in that case, the Board may establish the necessary conditions

so that such process shall not be detrimental to the community.

8.22. Recreational Fires.

A. Open Fires Prohibited. Open fires are prohibited in the Village of Phillipsburg, Ohio, except for recreational fires as defined by 8.22(B).

B. Permissible Recreational Fires. To qualify as a permissible recreational fire, an open fire must be:

1. For the purpose of cooking and/or enjoyment;

2. Brought to the attention of the Village of Phillipsburg Fire Department by telephone prior to being lit and after being extinguished;

3. Located at least 50 feet from any structure and at least 50 feet from any property boundary, except for enclosed chimney pits, which must be at least 15 feet from any structure;

4. No larger than 3 feet by 3 feet by 3 feet in dimension;

5. At all times attended by a sober and responsible adult;

6. Contained by either a metal pit ring or a commercially sold fire pits or chimneys; and

7. Used to burn only dry, clean wood; no trash, yard debris, leaves, or other materials may be burned.

C. Fire to be Tended. The person or persons attending the fire must have available, at all times, extinguishing equipment available in the form of a fire extinguisher equipped to extinguish wood-burning fires, a garden hose, sand, or other viable method. If at any time the recreational fire, as defined by Section 2 of this ordinance, in the sole discretion of the Fire Department, creates or adds to, or threatens to create or add to, a hazardous situation, the Fire Department may order the fire extinguished by the property owner or attending adult. Upon refusal, the Fire Department will extinguish the fire and the property owner shall be responsible to reimburse the Village for any and all costs associated with extinguishing the fire. Hazardous situations include, but are not limited to, conditions resulting from drought or wind.

8.23. Garage Sales.

A. Definition. A “garage sale” is defined as offering for sale to the general public of one or more items of pre-used personal property, other than motor vehicles, from one’s dwelling during a pre-specified period of time no greater than four (4) consecutive days wherein the public is invited to the dwelling for the purpose of observing and/or purchasing the property offered for sale. While such sale is traditionally based in a private garage, any sale of personal property from one’s dwelling during a pre-specified period of time shall be considered a “garage sale” for purposes of this Article.

B. Limit on Frequency and Number. Garage sales shall be limited to no more than two (2) per calendar year per dwelling. Each garage sale shall last no longer than four (4) calendar days. Furthermore, there shall be no less than fourteen (14) calendar days between garage sales at any one dwelling.

C. Hours of Operation. No garage sale shall open before 8:00 a.m. nor stay open after 6:00 p.m. on any day.

D. Permit Required. Except as stated in Section 8.23(D), any resident wishing to hold a garage sale must apply for and receive a permit at least seven (7) calendar days in advance of the garage sale. Permit applications shall be available at the Village of Phillipsburg Municipal Office during normal business hours, and may be made available on-line in the discretion of the Village Zoning Inspector. A fee of no more than $15.00 per permit application may be assessed. Permits issued shall be prominently displayed to the public during the entirety of the garage sale.

E. Village Garage Sale Day(s). Periodically, the Village Council may designate one or more days as “Village Garage Sale Days.” On such days, all residents are free to hold garage sales at their dwellings without first obtaining a permit. Garage sales held on Village Garage Sale Days shall not count toward the limit on the number of garage sales held per year stated in Section 8.23(B).

ARTICLE 9 OFF-STREET PARKING, LOADING, AND DRIVE-THROUGH REGULATIONS

9.01. **Off-Street Parking**. Loading, and Drive-Through Areas Required. All uses within the Village of Phillipsburg shall have accessory off-street parking, loading, and/or drive-through areas in accordance with this article.

A. Changes in Uses or Structures. No building or structure shall be erected, substantially altered, changed in use, nor shall any land be used or changed in use unless off-street parking spaces, off-street loading spaces, and/or off-street drive-through areas have been provided in accordance with the provisions of this zoning ordinance.

B. Uses Already Existing. The provisions of this article shall not apply to any use of a building, a structure, or any land existing before the effective date of this zoning ordinance, or any amendment thereto, unless such building, structure, or use is altered, changed, or abandoned. Off-street parking, loading, and/or drive-through waiting spaces existing at the effective date of this zoning ordinance shall not be reduced to an amount less than hereinafter required for a similar new building or use.

C. Reduction Prohibited. Once designated as accessory to a particular use, the number of such off-street parking, loading, and/or drive-through waiting spaces shall not be reduced to an amount less than required for such use as specified in this article.

D. Location of Required Parking, Loading, and Drive-Through Areas. All required off-street parking, loading, and drive-through areas shall be located on the same lot as the use they are intended to serve, unless otherwise approved by the Board of Zoning Appeals.

9.02. **Required Parking, Loading, and Drive-Through Plan**. A parking, loading, and drive-through plan shall not be required for single-family or two-family residential uses. All other uses of buildings, structures, or land shall submit a parking and loading plan to the Zoning Inspector as a part of the application for a zoning permit. The parking and loading plan shall show boundaries of the property, parking spaces, loading areas, waiting spaces, circulation patterns, drainage improvements, construction plans for any boundary walls or fences, a screening/landscaping plan, and the location of adjacent houses or buildings.

9.03. **Off-Street Parking Area Standards**. All off-street parking facilities, including entrances. exits, maneuvering areas, and parking spaces shall be in accordance with the following specifications.

A. Access. All parking spaces, except those required for single-family or two-family uses which do not front upon an arterial street, shall

have access to a public street in such a manner that any vehicle leaving from the parking area to a public street or alley, or entering into the parking area from a public street or alley, shall be traveling in a forward motion.

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

C. Paving. All required parking spaces, together with driveways and other circulation areas, shall be graded, and constructed having a minimum of eight (8) inches of #304 base overlain by at least two (2) inches of asphalt concrete or comparable all-weather surface acceptable to the Village Engineer.

D. Parking Space Dimensions. All parking spaces shall be in accordance with the following design requirements.

	45°	60°	90°	Parallel
Width of Parking Space	14’	11.5’	10’	9’
Length of Parking Space	21.5’	22’	20’	23’
Width of Driveway Aisle	13’	17.5’	25’	12’

E. Marking. All parking spaces shall be marked with paint lines, curb stones, or in any other manner approved by the Board of Zoning Appeals. All such markings shall be maintained in clearly visible condition.

F. Barriers. Fencing, wheel stops, curbs, or other suitable barriers shall be provided along all boundaries of a parking lot, except points of ingress and egress, in order to prevent any part of a vehicle from encroachment into landscaping, rights-of-way, and/or other properties.

G. 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 or walkways and damage to public streets.

H. Lighting. Any parking area which is intended to be used during non-daylight hours shall be properly illuminated as to avoid accidents.

Any lighting device used to illuminate a parking lot shall be so arranged as to reflect the light away from the adjoining property.

I. Separation From Right-of-Way. All parking facilities located within required front or side yards shall be separated from sidewalks and streets in public rights-of-way by a strip of landscaping which shall be at least ten (10) feet in width, be reserved as open space, and planted in grass.

J. Interior Landscaping Required. No off-street parking areas shall be constructed or enlarged until all of the interior landscaping required has been approved by the Village Planning Commission and installed.

1. Landscape Materials. The primary landscaping materials used in such off-street parking areas shall be trees which shall be eight (8) feet to ten (10) feet in minimum overall height upon planting, a minimum size of one and three-quarters (1 3/4) inches in trunk diameter, and which provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting materials may be used to complement the tree landscaping. A guide of planting types deemed acceptable for landscaping purposes is on file in the office 9f-the Zoning Inspector and should be consulted prior to design of any parking facility. In those instances where appropriate vegetation exists on a proposed parking facility site prior to its development or modification, such vegetation may be used to meet the requirements of this zoning ordinance.

2. Size of Planting Areas. The interior dimensions of any planting area shall be sufficient to protect the landscaping materials planted therein and to insure proper growth. The minimum distance from a tree to a vehicular use area shall be four (4) feet measured from the face of the tree. The minimum width of any landscaped area shall be five (5) feet.

3. Interior Requirements. A minimum ratio of five hundred (500) square feet of landscape area for each ten thousand (10,000) square feet of vehicular use area shall be provided. Individual parking lots with five (5) or less parking spaces shall not be required to contain such landscaping. For individual parking lots with more than five (5) parking spaces and less than ten thousand (10,000) square feet in area, five percent (5%) of the vehicular use area shall be devoted to such landscaping. All such landscaping shall be required in addition to any perimeter requirements. Planting which is

required for screening along peripheral areas of parking facilities shall not be considered as part of the interior coverage requirement.

a. Required Trees. A minimum of two (2) trees shall be provided for each ten thousand (10,000) square foot unit of interior vehicular use area.

b. Location of Interior Landscape Area. The interior landscape area and trees required for each ten thousand (10,000) square foot vehicular use area unit or fraction thereof, shall be located within that vehicular use area unit or fraction thereof. In areas where the Zoning Inspector has determined that strict application of this requirement will interfere with the function of a vehicular use area, the unused portion of the required interior landscaping shall be relocated elsewhere on the property so as to emphasize a landscaping feature.

   In order that there shall be safe access to parking spaces, landscaped strips shall be arranged so as to divide parking corridors and to limit cross movements through open parking spaces.

c. Credit for Existing Trees. If in the judgment of the Village Planning Commission it is deemed appropriate, credit may be received on the interior landscaping plan by preserving existing trees capable of tolerating adjacent construction. In order to maintain any tree deemed eligible for credit, one-hundred percent (100%) of the ground area under and within the drip line of the tree shall be preserved from the trunk out to the edge of the drip line and shall be maintained in either vegetative landscape material or pervious surface cover, except when the Village Planning Commission determines that lesser areas and other ground cover treatment will provide sufficient nourishment for the continued growth of the preserved type of tree. The required number of new trees may be reduced in accordance with the following schedule in exchange for preserving existing trees;

Diameter of Existing Crown Spread of	or	Diameter of Tree Trunk of Preserved	=	Number of Trees Credited

Preserved Tree (1)	Tree (2)	
90 ft. or greater	36 inches or greater	7
60-89 ft.	30-35 inches	6
50-59 ft.	26-29 inches	5
40-49 ft.	20-25 inches	4
30-39 ft.	13-19 inches	3
20-29 ft.	8-12 inches	2
16-19 ft.	4-7 inches	1

(1) Rounded off to the nearest whole foot
(2) Measured at a height of four and one-half (41/2) feet above the natural grade and rounded off to the nearest whole inch

K. Screening. Screening shall be provided as required by the appropriate district regulations.

L. Signs. Where necessary to indicate intended traffic flow patterns, the entrances, exits, and the Zoning Inspector may require the intended circulation pattern of the parking area to be clearly marked.

M. Maintenance. The owner and/or occupant of a parking area shall maintain such area in good condition and free of all dust, trash, or other debris.

N. Other Uses Within Required Parking Areas. No motor vehicle repair work or service of any kind, except emergency repairs, shall be permitted in or associated with any off-street parking area. Temporary display or sales of any merchandise within any parking area may be permitted only insofar as it is permitted under the district regulations of this zoning ordinance and it does not occupy more than twenty-five percent (25%) of the required parking area.

O. Joint Use of Facilities. Two (2) or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not overlap, provided that such an arrangement is provided within the deeds or other written legal instruments approved by the Board of Zoning Appeals.

P. Collective Parking Areas. Two or more non-residential uses may collectively provide the required off-street parking area, provided the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed

separately, provided deeds or other written legal instruments are provided.

9.04. **Parking Space Requirements**. For the purposes of this zoning ordinance, the parking space requirements set forth in this section of the zoning ordinance shall apply. The number of parking spaces required for uses not specifically mentioned shall be determined by the Board of Zoning Appeals.

A. RESIDENTIAL.

Type of Use	Parking Spaces Required
Single-family or two-family dwelling	Two for each unit which may include the driveway or a private garage
Multiple-family dwelling	Two for each unit, plus one for each employee

B. COMMERCIAL AND INSTITUTIONAL.

Type of Use	Parking Spaces Required
Animal hospital or kennel	One for each 400 square feet of floor area and one for each two employees
Automobile repair station	One for each 800 square feet of floor area and one for each employee
Automobile salesroom, wholesale store. machinery or other large item sales, or similar use	One for each 400 square feet of floor area and one for each employee
Automobile service station	Two for each service stall and two for each service bay
Automobile washing facility	One for each employee
Bank, financial institution, post office, and similar use	One for each 200 square feet of floor area and one for each employee
Barber and/or beauty shop	Three for each barber or beauty operator
Carry-out restaurant	One for each 200 square feet of floor area and one for each two employees. with a minimum total of eight (8)

Type of Use	Parking Spaces Required
	spaces
Child care nursery	One space for each five (5) children plus one space for each employee
Church or other place of religious assembly	One for each 300 square feet of floor area
Drive-in restaurant	One for each 125 square feet of floor area and one per each two employees
Farm market	One for each 200 square feet of floor area. with a minimum total of two (2) spaces
Funeral parlor, mortuary, and similar use	One for each 50 square feet of floor area in slumber rooms, parlors. or service rooms
Hotel or motel	One per each sleeping room, one for each employees, and one for each IOU square feet used for restaurant, cocktail lounge, or similar purpose
Laundromat	One for each washing or dry cleaning machine
Library, museum, and art gallery	One for each 400 square feet of floor area
Medical and dental office or clinic	Three for every examination or treatment room and one for each employee
Offices, public or professional administration, or service building	One for each 300 square feet of floor area
Restaurant or tavern	One for each three persons capacity, and one for each three employees
Retail store	One for each 250 square feet of floor area

C. INDUSTRIAL.

Type of Use	Parking Spaces Required
Manufacturing, storage use, warehouse and wholesale use, parcel delivery. freight terminal, and similar use	Two for every three employees on the largest shift for which the building is designed and one for each motor vehicle used in the business and maintained on the premises

D. RECREATIONAL.

Type of Use	Parking Spaces Required
Bowling alley	Six for each alley or lane plus one additional space for each 100 square feet used for restaurant, cocktail lounge, or similar use
Dance hall, skating rink	One for each two person capacity
Swimming pool	One for each two member families or one for each five persons capacity, whichever is greater
Auditorium, sport arena, theater. or similar use	One for each four persons capacity or four seats
Golf course open to the general public	Five for each hole, one for each employer, and one space for each 100 square feet of area used for restaurant, cocktail lounge, or similar purpose
Miniature golf course	Two for each hole and one for each employee
Private club or lodge	One for each three persons capacity
Tennis facility, racquetball facility or similar use	Two for each three playing areas and one for each employee

9.05. **Off-Street Loading Development Standards**. A permanently maintained area for standing, loading, and unloading services shall be provided for on the same lot with every building occupied for business, commerce, industry, public assembly, or other use involving the receipt or distribution of materials or merchandise by vehicles. These off-street loading areas shall be required in order to avoid undue interference with public use of streets and alleys. All loading facilities shall be in accordance with the following specifications.

A. Loading Space Dimensions. Each loading space shall have minimum dimensions not less than twelve (12) feet in width, fifty (50) feet in length, and a vertical clearance of not less than fifteen (15) feet.

B. Projection Into Yards. Off-street loading spaces may occupy any part of a required rear or side yard, but shall not project into any front yard.

C. Access. All required off-street loading spaces shall have access to a public street or alley in such a manner that any vehicle leaving or entering the premises shall be traveling in a forward motion.

D. Paving. All required loading spaces, together with driveways, aisles, and other circulation areas, shall be surfaced with a portland cement binder pavement in order to provide a durable and dust free surface.

E. Drainage. All loading spaces, together with driveways, aisles, and other circulation areas, shall be designed to prevent the drainage of surface water on to adjacent properties or walkways and damage to public streets.

F. Screening. Screening shall be provided as required by the appropriate zoning district regulations.

G. Minimum Distance From Residential Districts. No loading ramp, dock, door, or space, nor any portion thereof, shall be located closer than one hundred (100) feet from any lot within a residential district unless located completely within an enclosed building.

9.06. Loading Space Requirements. The minimum number of off-street loading spaces shall be provided in accordance with this section unless otherwise approved by the Board of Zoning Appeals. An area adequate for maneuvering, ingress, and egress shall be provided in addition to the following required loading spaces.

Type of Use	Parking Spaces Required
Retail operation, including restaurant and dining facilities within hotel or office building, with a total usable floor area of 20,000 square feet or more	1 loading berth for every 40.000 square feet of floor area or fraction thereof. I loading space for every 20,000 square feel of floor area or fraction thereof

devoted to such purposes

Type of Use	Parking Spaces Required
Retail operation, and all first floor non-residential use, with a gross floor area of less than 20.000 square feet, and all wholesale and light industrial operation with a gross floor area of less than 10.000 square feet	1 loading space
Industrial and wholesale operation with a gross floor area of 10.000 square feet or over as follows:	Minimum number of loading berths required
	10.000 to 39.999 square feet..... 1
	40,000 to 99,999 square feet..... 2
	100,000 to 159.999 square feet..... 3
	160,000 to 239,999 square feet..... 4
	240.000 10 319,999 square feet..... 5
	320.000 to 399.999 square feet..... 6
	Each 90,000 square feet above 399,999 square feet 1

9.07. **Drive-Through Waiting Since Requirements**. The following minimum number of drive-through waiting spaces shall be provided on the same lot as the use or building they are intended to serve. An area adequate for maneuvering, ingress, and egress shall be provided in addition to the following required drive-through waiting spaces.

A. Uses Providing Service Within Three (3) Minutes or Less. Establishments which normally provide service to patrons in three (3) minutes or less shall provide at least five (5) spaces per service point.

B. Uses Not Providing Service Within Three (3) Minutes. Establishments which do not normally provide service to patrons in three (3) minutes or less shall provide additional spaces on the basis of one (1) additional waiting space per additional minutes of waiting time.

C. Separate Additional Ordering Point. Establishments which provide an ordering point separate from the service point shall provide the required number of waiting spaces behind the initial ordering point rather than the service point.

9.08. Multiple Vehicle Parking Restrictions.

A. Storage Of More Than Four Vehicles Prohibited.

1. No person shall store, park or permit to be stored or parked, outside of a completely enclosed structure, and for consecutive periods in excess of seventy two hours, more than four motor vehicles as defined in Ohio R.C. 4501.01(B) on property located Within the following residential districts in the Village: R-1 and R-2.

2. It is an affirmative defense to a charge under subsection (a) hereof that more than four members of a family as such term is defined in the Zoning Code reside in a dwelling on property located within a residential district and are holders of valid Ohio motor vehicle licenses provided the number at motor vehicles stored or parked on the property outside of a completely enclosed structure do not exceed the number of licensed family member drivers residing at that property.

3. Whoever violates any provision of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

4. This section shall not be deemed to modify, limit or reduce in any fashion any existing restrictions on parking of vehicles as set forth in the Zoning Code.

9.09. Paving Requirement. No car, truck, trailer, boat, personal watercraft, recreational vehicle, all-terrain vehicle, semi or other vehicle shall be parked on an unpaved portion of any lot overnight. Unless otherwise specified, all paved areas shall be surfaced with at least a minimum of eight (8) inches of #304 base overlain by a portland cement binder pavement to create a durable and dust-free surface, or a similar construction approved by the Zoning Inspector.

ARTICLE 10 SIGNS

10.01. **Intent and Purpose**. The intent of this Article is to protect the health, safety, convenience, prosperity, and general welfare of the public by providing a comprehensive system of sign regulation for the Village of Phillipsburg that recognizes the necessity and desirability of communication by outdoor signs while promoting an order to signage which eliminates visual clutter and confusion within the physical environment. It is the further intent of this Article to encourage compatibility between the design and functional nature of the sign and its location within the physical environment, thus reducing the propensity for traffic accidents and personal hazards caused by distractions, sight obstructions, and unsafe structures.

10.02. **Zoning Permit Required**. The erection or location of any sign within the Village of Phillipsburg shall require a permit unless otherwise specified within this Article.

10.03. **Exempted Signs**. Signs erected for the purpose of traffic control, civil defense, or other similar public function, signs which cannot be viewed or are not intended to be viewed from any street or other property, and signs required by any law, ordinance or governmental regulation shall be exempt from the permit requirements of this Article.

10.04. **General Location and Safety Requirements**. All signs erected or located within the Village of Phillipsburg shall be in conformance with the following requirements.

A. Signs shall not prevent free ingress to or free egress from any door, window, or fire escape.

B. Signs shall not obstruct free and clear visibility at any intersection.

C. Signs shall not be located or designed so as to interfere with, obstruct the view of, or be confused with any authorized traffic control sign, signal, or device.

D. Signs shall not make use of colors, rotating lights, the words "STOP", "LOOK", "DANGER", or other similar words, devices, or symbols which may mislead or confuse traffic.

E. Signs shall not be erected within nor project into any public right-of-way unless otherwise specified, and shall not be posted in any manner that is destructive to public property.

F. All lighting, indirect or internal, shall consist of constant illumina which is uniform in intensity except for time and temperature displays. All lighting shall be properly directed so as to not create a

nuisance to surrounding properties and public streets because of glare.

G. Any illuminated sign which is clearly visible from any residential district shall not be illuminated between the hours of 11 p.m. and 7 a.m. unless it is accessory to a business or commercial use open for business during such hours and located upon the same lot.

H. Streamers, spinners, banners, strings of lights, and other similar devices which do not serve the function of a sign shall not be permitted.

I. The bottom of all freestanding signs, except ground signs, shall maintain a minimum clearance of -eight (8) feet above any pedestrian area and fourteen (14) feet above any parking or loading area.

J. Wall signs shall not extend above the junction of any roof and wall.

K. Projecting signs shall not project into any right-of-way or adjacent property, and shall not project more than thirty-six (36) inches over any required setback line.

10.05. Authorization of Property Owner Required. No sign shall be erected or located upon any property or building without the consent of the owner(s) of such property or building, or an authorized representative thereof.

10.06. Requirements For Specific Types of Signs.

A. Real Estate Signs. Real estate signs shall not exceed six (6) square feet in area per side within any residential district and shall not exceed twenty (20) square feet within any other district. No zoning permit shall be required for any real estate sign having an area equal to or less than the requirements of this section.

B. Political Signs. Signs involving any ballot issue or candidate for public elective office may be temporarily erected for a period not to exceed sixty (60) days before or seven (7) days after an election. No zoning permit or fee shall be required for political signs.

C. Subdivision Sale Signs. Signs providing information on the sale of lots within an approved and recorded subdivision may be placed upon the property until such time as seventy-five percent (75%) of the lots within the subdivision are sold. All such signs shall be set back a minimum of fifteen (15) feet from any public right-of-way. The maximum sign area shall be twenty (20) square feet.

D. Special Event Signs. Information signs advertising a grand opening, a seasonal event, a special sale, or any other similar special event may be temporarily located upon the premises on which the event is to take place for a period not to exceed seven (7) days within any thirteen (13) week period. The maximum sign area permitted for special event signs shall be six (6) square feet in any residential district and twelve (12) square feet in any other district. All signs shall be set back from the street right-of-way a minimum of ten (10) feet.

10.07. Billboards. Billboards may be erected on free-standing structures within the B-2 Highway Business District or on any side or rear building wall in any other business or commercial zoning district. All billboards shall be subject to the following provisions.

A. The billboard can be double-faced and each side shall be considered as facing traffic flowing in the opposite direction;

B. The top of a billboard shall not extend more than twenty five (25) feet above the grade of the street;

C. No billboard shall be located closer than 1,500 feet to another billboard facing traffic flowing in the same direction;

D. The maximum permitted area of a billboard shall not exceed two hundred fifty (250) square feet of total area within the B-2 Highway Business District or two hundred (200) square feet of total area within any other business or commercial zoning district;

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

F. All lighting used in the illumination of billboards shall be adequately shielded or shaded, and properly directed so as to not be objectionable to adjacent and surrounding properties;

G. All free-standing billboards shall be set back from right of-way lines a minimum distance of one hundred (100) feet along all State highways designated as such on the Official Zoning District Map, and the required front yard setback along all other streets; and

H. No billboard shall be located closer than five hundred (500) feet to any residential district.

10.08. Identification Signs Within Non-Residential Districts. Signs which identify a use within a nonresidential district may be erected upon the same property as such use in accordance with the following provisions.

A. Identification signs shall pertain only to the use or uses conducted upon the same property and shall not contain any advertising of products or changeable copy.

B. Identification signs shall be considered permanent installations and shall be either ground-mounted, freestanding, or attached to the structure which houses the use or uses identified on the sign.

C. The following standards shall be applicable to all identification signs within nonresidential districts.

1. B-1 Central Business District. Each principal structure shall be entitled to one (1) identification sign, which shall be a wall sign.

2. B-2 Highway Business District. Each principal structure shall be entitled to two (2) identification signs in the following combinations. one freestanding sign and one wall sign; one projecting sign and one wall sign; or two wall signs. Two freestanding signs, two projecting signs, or both a projecting and a freestanding sign shall not be permitted upon the same property unless otherwise specified in this Article. The maximum sign area for a freestanding sign or a projecting sign shall be twenty-five (25) square feet.

3. OS-1 Office Service District. Each principal structure shall be entitled to two (2) identification signs in the following combination. one freestanding ground-mounted sign and one wall sign. Two freestanding signs, two wall signs, two projecting signs. or both a projecting and a freestanding sign shall not be permitted upon the same property. The maximum sign area for a freestanding sign or a projecting sign shall be twenty (20) square feet.

4. C Commercial District. Each principal structure shall be entitled to two (2) identification signs in the following combinations. one freestanding sign and one wall sign; one projecting sign and one wall sign; or two wall signs. Two freestanding signs, two projecting signs, or both a projecting and a freestanding sign shall not be permitted upon the same property unless otherwise specified in this Article. The maximum sign area for a freestanding sign or a projecting sign shall be twenty-five (25) square feet.

5. Maximum Sign Area For All Wall Signs. The maximum sign area for a wall sign in any zoning district shall be one (1)

square foot per linear foot of building frontage up to a maximum of one hundred (100) square feet.

6. Freestanding Signs. Freestanding signs shall not exceed sixteen (16) feet in height -and shall be set back a minimum of ten (10) feet from any street right-of-way line. Landscaping shall be provided a minimum of three (3) feet around the footprint of the outer perimeter of all parts of the sign.

10.09. Identification Signs Within Residential Districts. Signs which identify a use within a residential district may be erected upon the same property as such use in accordance with the following provisions.

A. Identification signs for non-residential uses within any residential district shall be attached to and shall not project more than fifteen (15) inches from the principal structure. Such signs shall be non-illuminated and shall not exceed five percent (5%) of the total area of the building elevation upon which the sign is placed. A freestanding ground-mounted sign with surrounding landscaping may be permitted in lieu of, but not in addition to, such attached sign, subject to approval by the Board of Zoning Appeals.

ARTICLE 11 RADIO, TELEVISION AND TELEPHONE TOWERS AND ANTENNAS

11.01. Definitions

A. "Antenna" means any structure or device used for the purpose of collecting, transmitting or relaying electromagnetic waves, including but not limited to directional antennas and omni-directional antennas.

B. "Radio and television towers" means a tower, structure or similar device erected for the purposes of and/or used for broadcasting, receiving, or relaying television or radio signals but excluding, for purposes of this chapter, satellite dishes, satellite towers and related equipment installed on a residential property and used for residential purposes.

C. "Telephone communication system" means a communications system, including any wireless communication system, licensed by the Federal Communications Commission and/or the Public Utilities Commission of Ohio, including, but not limited to, receiving and transmitting equipment, switching equipment, wires, poles, antennas, conduits, cables, and all similar equipment and site amenities as regulated in this section but excluding, for purposes of this chapter, landline telephone systems and equipment relating thereto.

D. "Telephone tower" means a freestanding, ground mounted, monopole tower, lattice tower, or other structure with related antennas erected for the purposes of and/or used for transmitting, receiving or relaying signals in connection with a telephone communication system.

E. "Antennas and equipment on existing structures" means telephone exchange equipment boxes, towers, antennas, vaults and similar equipment or structures and/or buildings used in connection with a telephone communication system which antennas and equipment are attached to, or mounted on, a building or other permanent structure.

F. "Tower height." For the purposes of this chapter, the height of a radio and television tower or telephone tower shall be measured from the natural grade of the property on which it or any building or structure to which it is attached, to the highest point of the pole on any attached antenna, lighting, or accessory fixture.

G. "Equipment" means all radio, television and telephone towers, antennas, and antennas and equipment on existing structures,

together with all devices, structures, buildings and equipment associated therewith.

11.02. Conditions

The following conditions shall apply to all radio, television and telephone towers (collectively, "towers") and antennas and equipment on existing structures:

A. All equipment, except antennas and equipment on existing structures, shall be enclosed by a minimum six (6) foot high, chain link fence with a three strand barbed wire top structure or other such enclosure approved by the Village. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment If the base of any equipment is visible from any private residence or public right-of-way, then all such equipment shall be screened by a minimum six (6) foot high landscaped buffer or a six (6) foot high non-vegetative buffer if in the reasonable discretion of the Village, such a buffer better reflects and complements the architectural character of the surrounding neighborhood.

B. All equipment shall be removed within six (6) months of ceasing operations. If not removed, the equipment shall be subject to abatement by the Village on the grounds that it constitutes a nuisance.

C. All equipment and the operation of all such equipment, shall comply with all applicable government regulations including but not limited to those established by the Ohio Department of Transportation (ODOT), the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC) or the successors to their respective functions.

D. Lights, beacons or strobes shall not be permitted on any radio, television or telephone towers or antennas and equipment on existing structures unless required by the Federal Aviation Administration.

E. No sign shall be permitted on any equipment unless required by a governmental agency; provided, however, that signs relating to ownership of equipment, safety instructions and warnings, not in excess of sixteen square feet in total sign area shall be permitted as a special use subject to approval pursuant to the Zoning Ordinance.

F. The color of all towers shall be light grey except in instances where the color is dictated by federal or state authorities such as the FAA.

11.03. Radio And Television Towers As Conditional Use

Radio and television towers and equipment may be permitted as a conditional use in nonresidential zones, subject to the provisions of Section 12.02, and subject further to the following conditions:

A. Radio and television towers shall be located at least 200 feet or a distance equal to the height of the tower, whichever is greater, from any residential dwellings in a residential districts.

B. Radio and television towers shall not exceed 300 feet in height.

C. Radio and television towers shall be set back at least 150 feet from the right-of-way of any thoroughfare or collector street as specified by the Village Plan.

D. Any guywire anchor supporting radio and television towers must be located within the property boundaries and be setback a minimum of twenty-five feet from any property line.

11.04. Radio And Television Towers As Accessory Use

Radio and television towers and equipment may be permitted as accessory uses in Residential and Planned Use Districts subject to the following standards and conditions:

A. Radio and television towers shall not exceed fifty feet in height except that:

1. Radio and television towers in excess of fifty feet in height up to a maximum height of 100 feet may be permitted as an accessory use provided that the tower is setback from all abutting properties a distance at least equal to the height of the tower, and provided that such tower satisfies all of the other requirements set out herein.

2. Radio and television towers in excess of fifty feet in height may also be permitted as a special use. In no event, however, shall such towers exceed 200 feet in height.

B. Any guywire supporting the tower must be located with the boundaries of the property and be setback a minimum of five feet from any property line.

C. Any such towers must be located in the rear yard of the property upon which it is located.

11.05. Telephone Towers As Conditional

Telephone towers for the purpose of a telephone communication system may be permitted as a conditional use in all non-residential districts subject to the provisions of Section 12.02, and subject further to the following conditions:

A. Telephone towers shall be located at least 200 feet or a distance equal to the height of the tower, from any residential structure in a residential district.

B. Telephone towers shall not exceed 200 feet in height_

C. All telephone towers must be freestanding, monopole structures, unless the applicant can demonstrate that an alternative type structure (e.g. lattice tower) would either better blend into the surrounding environment or be able to better accommodate the co-location requirements set forth in subsection (e) hereof.

D. Telephone towers shall be set back at least one hundred fifty (150) feet from any arterial, collector, or local street as specified by the Village Thoroughfare Plan unless otherwise approved by the Planning Commission.

E. Co-Location Requirements.

1. The applicant for a special use permit under this section shall agree to permit use of the telephone tower by other communication service providers, on reasonable terms, so long as such use does not conflict with the applicant's and/or any other pre-existing user's use of the telephone tower and does not violate the structural integrity of the telephone tower.

2. Applications for special use permits relating to new telephone towers shall not be accepted unless the applicant makes a good faith effort to substantially demonstrate that no existing or planned tower or other existing publicly owned structure (e.g. a water tower) can accommodate the applicant's equipment The application shall include documentation regarding the availability of any existing or approved, but unbuilt, telephone towers within the transmission area including towers located in adjacent jurisdictions that may meet the needs of the applicant The supplied documentation shall evaluate the following factors:

a. Structural capacity of the telephone towers;

b. Geographic service area requirements;

c. Mechanical or electrical incompatibilities;

d. Inability or ability to locate equipment on existing telephone towers;

e. Any restriction or limitation of the Federal Communication Commission that would preclude the shared use of the telephone tower.

The Village shall retain a list of approved applications for telephone towers and shall provide upon request a copy of the list to all applicants for conditional use permits relating to telephone towers.

3. Telephone towers shall be constructed to accommodate both the applicant's equipment and comparable equipment for at least one additional user if the tower is over one hundred (100) feet in height. Towers must be designed to allow for future rearrangement of antennas and other equipment upon the tower and to accept antennas mounted at varying heights. The site on which the tower is located must be large enough to accommodate the potential need for more than one (1) utility building.

4. For towers over one hundred (100) feet in height, the Village may require, as a condition of approval, the dedication of space on the tower for a telephone communications system as needed for public safety. Specific requests for such public use shall be discussed with the applicant prior to formal approval.

11.06. Antennas And Equipment On Existing Structures

Antennas and equipment on existing structures located in the public right-of-way on existing utility poles with the permission of the utility provider or on an existing structure shall be permitted as a conditional use in all non-residential Districts subject to the following conditions and standards:

A. All equipment shall be designed to match or be compatible with the color of the pole or building on which they are mounted.

B. Equipment on existing utility poles shall not exceed the height of the existing pole upon which it is located by more than ten (10) feet.

C. Antennas and equipment on existing structures located outside the public right-of-way (e.g., on water towers or other structures) shall

not exceed the height of the existing structure upon which it is located by more than fifty (50) feet and in no event may the total height of the structure and equipment exceed two hundred (200) feet.

D. All equipment associated with a telephone communication system, except antennas and cables connecting antennas to other equipment, shall be located underground, attached to the structure or inside the building upon which they are mounted.

E. An existing utility pole may be replaced, if not structurally suitable to hold the equipment but in no case shall the new pole exceed the height of the existing pole by more than ten (10) feet.

F. A right-of-way use permit will be required from the Village for any antennas or equipment located in the public right-of-way.

ARTICLE 12 NONCONFORMING LOTS, USES, STRUCTURES AND SIGNS

12.01. Intent

This Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of the uses which are permitted in that district. Within each established district as well as those which may be established by future amendments, there are and will be lots, uses of lands, structures, and uses of structures and land in combination which were lawful before this Zoning Ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this Zoning Ordinance or future amendments. Since such nonconformities are deemed incompatible with the districts in which they are located, it is the intent of this chapter to specify those circumstances and conditions under which such nonconformities shall be permitted to continue, but not to encourage their survival. Rather, it is the intent of this Zoning Ordinance to encourage either the conversion of nonconforming uses into conforming uses as soon as reasonably possible or their eventual and equitable elimination.

12.02. Enlargement, Expansion Or Extension

Any nonconforming structure, or use which existed lawfully at the time of the adoption of this Zoning Ordinance and which remains nonconforming, as well as any which shall become nonconforming upon any subsequent amendments thereto, may be continued but shall not he enlarged upon, expanded or extended nor be used as wounds for adding other structures or uses prohibited elsewhere in the same district except as provided for in subsequent sections of this chapter.

12.03. Single Nonconforming Lots

A. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record even through such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, if the following conditions are met:

1. As of the effective date of adoption or amendment of this Zoning Ordinance creating a nonconformity as to lot width or area, erection of such a dwelling and accessory buildings on the lot would have been lawful; use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accord with other provisions of this Zoning Ordinance.

2. Such lot shall be in separate ownership from contiguous lots and not of continuous frontage with other lots in the same ownership; and

3. Yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

B. Any variances of yard requirements other than lot area or lot width required to permit the erection of such a dwelling and accessory buildings shall be obtained through action of the Board of Zoning Appeals.

C. No other nonconforming lots may be built upon.

12.04. **Nonconforming Lots of Record in Combination**. If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption or amendment of this Zoning Ordinance and if all or part of the lots considered separately do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Ordinance. No portion of such parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this Zoning Ordinance. If such a division shall occur, the resulting properties shall not be nonconforming buildable lots.

12.05. **Nonconforming Uses of Land**.

A. (Nonconforming uses of land may be continued so long as they remain otherwise lawful, provided:

1. (1) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Ordinance creating such nonconformity.

2. (2) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this Zoning Ordinance creating such nonconformity.

3. (3) No additional structure not conforming to the requirements of this Zoning Ordinance shall be erected in connection with such nonconforming use of land.

4. (4) No existing structure devoted to a use not permitted by this Zoning Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

5. (5) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Zoning Ordinance, but no such use shall be extended to occupy any land outside such building.

6. (6) If no structural alterations are made, any nonconforming use of a structure may, upon appeal to the Board of Zoning Appeals, be changed to another nonconforming use provided that the Board shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accord with other provisions of this Zoning Ordinance.

7. Any land, structure or structure and land in combination, in which a nonconforming use is superseded by a permitted use shall thereafter be used only in conformance with the regulations for the district, and the nonconforming use may not thereafter be resumed.

8. If any such nonconforming uses of land are discontinued or abandoned for more than one (1) year (except when government action impedes access to the premises), any subsequent use of land shall conform to the regulations specified by this Zoning Ordinance for the district in which such land is located.

9. Where nonconforming use status applies to a structure and land in combination, if a structure is moved or destroyed, as defined in this chapter, the nonconforming use status of the land shall be eliminated.

12.06. Nonconforming Structures Other Than Signs.

A. Where a nonconforming structure other than a sign exists, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged, expanded or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity_

2. Should such nonconforming structure or nonconforming portion of the structure be destroyed, as defined in this chapter, there shall be no reconstruction or repair of the structure except in full conformity with the provisions of this Zoning Ordinance.

3. Should such structure be moved any distance whatsoever for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

12.07. Nonconforming Signs.

A. Where a nonconforming sign exists, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. A nonconforming sign shall not be replaced by another nonconforming sign except that the substitution or interchange of poster panels, lettering, painted boards or demountable material on such nonconforming sign shall be permitted.

2. Minor repairs and maintenance of nonconforming signs such as repainting, electrical repairs and replacements, and neon tubing repair shall be permitted. However, no structural repairs or changes in the location, size or shape of the sign shall be permitted except to make the sign comply with the requirements of this chapter or to make it less nonconforming.

3. Should such nonconforming sign or nonconforming portion of the sign be destroyed, as defined in this chapter, there shall be no reconstruction or repair of the sign except in full conformity with the provisions of this Zoning Ordinance.

4. Any nonconforming sign which is altered, except as provided for herein, relocated or replaced shall comply with all

provisions of this chapter as if it were a new sign except as provided above.

12.08. Repairs And Maintenance

On any nonconforming structure, or a portion or all of a structure containing a nonconforming use, ordinary repairs may be performed, including repair or replacement of walls or partitions, fixtures, wiring or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased. Repairs may not be performed on any structure which has been destroyed, as defined in this chapter. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official, except where the structure has been destroyed, as defined in this chapter. However, any such repairs shall, to the extent reasonably possible increase conformance with this Zoning Ordinance.

12.09. Avoidance Of Undue Hardships.

A. To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require a change in the plans, construction or designated use of any building, planned or under construction, which complies with all the following provisions:

1. Any required building permit or zoning permit shall have been lawfully issued prior to the effective date of adoption or amendment of this Zoning Ordinance.

2. Actual building construction shall have begun within ninety (90) days of the effective date of adoption or amendment of this Zoning Ordinance. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition or in loyal of an existing building has substantially begun in preparation of rebuilding, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

3. All construction work authorized by the issuance of the building permit shall have been completed within three (3) years of the adoption or amendment of this Zoning Ordinance.

12.10. **<u>Destroyed Structure</u>.** "Destroyed" for the purpose of this chapter is defined as damage to the structure to an extent of more than fifty percent (50 %) of the replacement cost of the structure at the time of such damage, and includes damage due to any cause including but not limited to fire, vandalism, theft, explosion or act of God.

ARTICLE 13

13.01. Carnivals and Festivals.

A. Carnivals and circuses shall be permitted in any district except residential districts, provided that any structures be at least 200 feet from any residential district and provided they are operated for a period not exceeding ten (10) days, when permitted by the Planning Commission.

B. The Zoning Officer may issue a permit for a festival in any district for a period not to exceed ten (10) days provided the following conditions are met:

1. Any structures shall be at least 100 feet from any residence;

2. Adequate off-street parking area shall be provided on or adjacent to the grounds;

3. The sponsoring group shall provide site security and notify the Chief of Police or his/her designee of the dates of the activities;

4. The sponsoring group shall be responsible for the cleaning-up and removal of all trash and garbage in the area;

5. The sponsoring group shall be responsible to see that all activities are conducted within the hours of 9:00 a.m. and midnight; and

6. The sponsoring group shall comply with ail fire and safety regulations.

13.02. Trash Container Enclosures.

Any property that is zoned commercial, industrial, or multi-family which utilizes outdoor trash containers and/or receptacles (including recycling containers) shall have said containers and/or receptacles placed to the rear of the principal building and shall be screened or enclosed on four (4) sides with one side being constructed with opening, lockable doors for the purpose of trash removal from the trash containers and/or receptacles, The trash containers and/or receptacle enclosures shall be constructed of a wooden or vinyl fence structure, earth mound, or wall with an opaqueness of one hundred percent (100 %) and a height of twelve (12) inches above the top of the largest container. It is encouraged that the trash container enclosure be constructed of similar exterior material used in the exterior construction of the principal building. The Zoning Administrator may approve an alternative buffering plan for a trash

container or receptacle as long as it is entirely shielded from the public view.

13.03. <u>Agricultural Animals</u>.

Agricultural animals shall not be kept, harbored or maintained in any non-Agricultural Districts, except that said prohibition shall not apply to properties in which the actual lot size is two (2) acres or more. For purposes of this provision, "agricultural animals" are horses, mules, donkeys, ponies, cattle, swine, sheep, goats, geese, pigs, turkeys, guinea fowl, chickens, peacocks, burros, llamas, alpacas, ostriches and emus, and other animals determined by the Zoning Officer to be similar in nature.

ARTICLE 14 FLOOD DAMAGE PREVENTION

14.01. **Statutory Authorization.** Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety and general welfare of its citizens. Therefore. Council does ordain this chapter as follows.

14.02. **Findings Of Fact.**

A. The flood hazard areas of the Village are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

14.03. **Statement Of Purpose.** It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. Protect human life and health;

B. Minimize expenditure of public money for costly flood control projects;

C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to minimize future flood blight areas; Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

G. Minimize the impact of development on adjacent properties within and near flood prone areas;

H. Ensure that the flood storage and conveyance functions of the floodplain are maintained;

I. Minimize the impact of development on the natural, beneficial values of the floodplain;

J. Prevent floodplain uses that are either hazardous or environmentally incompatible; and

K. Meet community participation requirements of the National Flood Insurance Program.

14.04. Methods Of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water hazards, or which result in damaging increases in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

14.05. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

A. "Accessory structure" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

B. "Appeal" means a request for a review of the Mayor's (or his designees) interpretation of any provision of this chapter or a request for a variance.

C. "Area of special flood hazard" means the land in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AO, A1-30, and A99.

D. "Base flood" means the flood having a one percent (1 %) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 100 year flood.

E. "Base (100-Year) Flood Elevation (BFE)" means the water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).

F. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

G. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment Or materials.

H. "Executive Order 11988 (Floodplain Management)" means issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

I. "Federal Emergency Management Agency" (FEMA) means the agency with the overall responsibility for administering the National Flood Insurance Program.

J. "Fill" means a deposit of earth material placed by artificial means.

K. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation or runoff of surface waters from any source.

L. "Flood Hazard Boundary Map (FHBM)" means usually the initial map, produced by the Federal Emergency Management Agency, or U. S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

M. "Flood Insurance Rate Map" (FIRM) means an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

N. "Flood Insurance Risk Zones" mean zone designations on FHBMs and FIRMS that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

Zones AI-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

Zone AO: Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

Zone AH: Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

Zone B and Zone X(shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than I square mile; and areas protected by levees from the base flood.

Zone C and Zone X (unshaded): Areas determined to be outside the 500-year floodplain.

O. "Flood Insurance Study" means the official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

P. "Flood Protection Elevation", or FPE, is the base flood elevation plus one (1) foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection

elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Mayor or his designee.

Q. "Floodway" is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following:. Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

R. "Freeboard" means a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

S. "Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U. S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or

T. "Hydrologic and hydraulic engineering analysis" means an analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

U. "Letter of Map Change (LOMC)" A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

1. Letter of Map Amendment (LOMA). A revision based on technical data showing that a property 'was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

2. Letter of Map Revision (LOMR). A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

3. Conditional Letter of Map Revision (CLOMR). A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

V. "Lowest floor" means the- lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is built in accordance with the applicable design requirements specified in this chapter for enclosures below the lowest floor.

W. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Article 3733 of the Ohio Revised Code.

X. "Manufactured home park" As specified in the Ohio Administrative Code 37012701, a manufactured home park means any tract of land upon which three or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

Y. [Intentionally omitted.]

Z. "National Flood Insurance Program (NFIP)" The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

AA. "New construction" means structures for which the "start of construction" commenced on or after the initial effective date of the Village's Flood Insurance Rate Map, December 15, 1981, and includes any subsequent improvements to such structures.

BB. "Person" Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111 15 as any governmental entity of the State and includes, hut is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

CC. "Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

DD. "Registered Professional Architect" means a person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Revised Code.

EE. "Registered Professional Engineer" means a person registered as a professional engineer under Article 4733 of the Revised Code.

FF. "Registered Professional Surveyor" means a person registered as a professional surveyor under Article 4733 of the Revised Code.

GG. "Special Flood Hazard Area" Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, AI-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

HH. "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include

the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

II. "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

JJ. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50 %) of the market value of the structure before the damage occurred.

KK. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50 %) of the market value of the structure before the" start of construction" of the improvement. This term includes structures which have incurred" substantial damage", regardless of the actual repair work performed. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or

3. Any improvement to a structure which is considered new construction.

LL. "Variance" means a grant of relief from the standards of this chapter consistent with the variance conditions herein.

MM. "Violation" means the failure of a structure or other development to be fully-compliant with these regulations.

14.06. **Applicable Lands.** This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village as identified by the Federal Emergency Management Agency, including any additional flood hazard areas annexed by the Village that are not identified on the effective Flood Insurance Rate Map.

14.07. **Basis For Establishing The Areas Of Special Flood Hazard.** For the purposes of these regulations, the following studies and/or maps are adopted:

A. "Flood Insurance Study for Montgomery County, Ohio and Incorporated Areas dated January 6,2005. Flood Insurance Rate Map for Montgomery County, Ohio and Incorporated Areas dated January 6, 2005.

B. Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the Village as required by this Code.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations.

14.08. **Compliance.** Unless specifically exempted from filing for a development permit as stated in this Code, no structure or land shall hereafter be located, erected, constructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this chapter and all other applicable regulations which apply to uses within the jurisdiction of this chapter.

14.09. **Abrogation And Greater Restrictions.** This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

14.10. **Interpretation.** In the interpretation and application of this chapter, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under State statutes. Where a provision of this chapter may be in conflict with a State law, such State law shall take precedence over this chapter.

14.11. **Warning And Disclaimer Of Liability.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and. will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such

areas shall be free from flooding or flood damages. This chapter shall not create liability on the part of the Village, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

14.12. **Violations And Penalties.** Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth degree. Whoever violates this chapter or fails to comply with any of its requirements (including violations of conditions of and safeguards established in connection with conditions) shall upon conviction thereof be fined or imprisoned as provided by the laws of the Village. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violations. The Village shall prosecute any violation of this chapter in accordance with the penalties stated herein.

14.13. **Floodplain Development Permits**

A. It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 14.07 until a floodplain development permit is obtained from the Mayor or his designee. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Mayor or his designee until the requirements of these regulations have been met.

B. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Mayor or his designee may require an application for a floodplain development permit to determine the development r s location. Such applications shall include, but not be limited to:

1. Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of

materials, drainage facilities, and the location of the foregoing.

2. Elevation of the existing, natural ground where structures are proposed.

3. Elevation of the lowest floor, including basement, of all proposed structures.

4. Such other material and information as may be requested by the Mayor or his Designee to determine conformance with, and provide enforcement of these regulations.

5. Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:

    a. Floodproofing certification for non-residential floodproofed structure as required in Section 14.20(b).

    b. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 14.20(e) are designed to automatically equalize hydrostatic flood forces.

    c. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 14.16(d).

    d. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 14.22.

    e. Generation of base flood elevation(s) for subdivision and large scale developments as required by Section 14.20(f).

C. The following as-built certifications are required after a floodplain development permit has been issued:

1. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

2. For all development activities subject to the standards of Section 14.23(a) Letter of Map Revision.

14.14. Exemption From Filing A Development Permit. An application for a floodplain development permit shall not be required for:

A. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than $5,000.

B. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.

C. Major utility facilities permitted by the Ohio Power Siting Board under Article 4906 of the Ohio Revised Code.

D. Hazardous waste disposal facilities permitted by the Hazardous Waste Sitting Board under Article 3734 of the Ohio Revised Code.

E. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

14.15. Designation Of Flood Damage Prevention Administrator. The Mayor or his designee is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

14.16. Administrator Duties And Responsibilities. The duties and responsibilities of the Mayor or his designee shall include but are not limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

2. Review all development permits to assure that all necessary permits have been received from those Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required, including permits issued by the Department of Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.

3. Review all development permits to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section 14.21(a) is met.

B. Use of Other Base Flood Elevation and Floodway Data. Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section 14.07, are designated as Zone A on the community's Flood Insurance Rate Map. Within these areas, the Mayor or his designee shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data obtained under Section 14.20(t), Subdivisions and Large Developments, in order to administer Sections 14.20(a) and (b) and 14.21.

C. Information to be Obtained and Maintained. Where base flood elevation data are utilized within areas of special flood hazard on a community's Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and record whether or not such structures contain an enclosure below the lowest floor.

2. For all new or substantially improved floodproofed nonresidential structures:

a. Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and

b. Maintain the floodproofing certifications required in Section 14.13(c).

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

4. In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Mayor or his designee shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

D. Alteration of Watercourses. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage. " The field determination of "bankfull stage" shall be based on methods presented in Article 7 of the USDA Forest Service General Technical Report R..1I -245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

1. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.

2. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.

3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Mayor or his designee may require

the permit holder to enter into an agreement with the Village specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

4. The applicant shall meet the requirements to submit technical data in Section 14.23(a)(1)C when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

E. Interpretation of Flood Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special Good hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Where a map boundary and field elevations disagree, the elevations delineated in the flood elevation profile shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sections 14.17 and .18.

14.17. Appeal Board; Variance Procedure

A. The Village Planning Commission, as established by the Village, shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Planning Commission shall hear and decide any appeals when it is alleged there is an error in any requirement, decision or determination made by the Mayor or his designee in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Planning Commission or any taxpayer, may appeal such decision to the Montgomery Court of Common Pleas, as provided in Ohio R.C. Article 2506.

D. In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided .by the proposed facility to the community;

5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

6. The necessity to the facility of a waterfront location, where applicable;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. Upon consideration of the factors of subsection (d) hereof and the purposes of this chapter, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The Mayor or his designee shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

14.18. Conditions For Variances

A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items in Section 14.17(d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

D. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section ___.17(d) or conflict with existing local laws or ordinances.

F. Any applicant to whom a variance is granted shall be given written notice that the structure shall be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance shall be commensurate with the increased risk resulting from the reduced lowest floor elevation.

14.19. <u>Subdivision And Large Developments</u>.

A. All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

D. in all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.

E. The applicant shall meet the requirement to submit technical data to FEMA in Section 14.23(a)(I)D. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 14.16(d).

14.20. <u>Standards For Flood Hazard Reduction</u>.

A. <u>Residential Structures</u>.

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring 14.20(a)(1) and construction materials resistant to flood damage 14.20(a)(2) are satisfied.

2. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.

3. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

5. New construction and substantial improvements, including manufactured homes, that do not have basements and that

are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:

a. Be used only for the parking of vehicles , building access, or garage; and

b. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or

c. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

6. Manufactured homes shall he affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

7. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure I s continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 14.20.

8. In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

B. Nonresidential Structures.

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall

meet the requirements of Section 14.20(a)(1) - (3) and (5) - (7).

2. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:

   a. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;

   b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

   c. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 14.20(b)(1) and (2). In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

C. Accessory Structures. A relief to the elevation or dry floodproofing standards may be granted for accessory structures (such as sheds or detached garages) containing 576 square feet or less in gross floor area. Such structures must meet the encroachment provisions of Section 14.21(a) and the following additional standards:

   1. They shall not be used for human habitation;

   2. They shall be designed to have low flood damage potential;

   3. They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;

   4. They shall be firmly anchored to prevent flotation;

   5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed; and

6. They shall meet the opening requirements of Section 14.20 (a)(5)C.

D. Recreational Vehicles. Recreational Vehicles must meet at least one of the following standards:

1. They shall not be located on sites in special flood hazard areas for more than 180 days, or

2. They must be fully licensed and ready for highway use, or

3. They must meet all standards of Section 14.20(a)

E. Enclosures Below the Lowest Floor. The following provisions apply to all new and substantially-improved residential and nonresidential structures which are elevated to base flood elevation using pilings, columns or posts. Fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall:

1. Be certified by a registered professional engineer or architect; or

2. Must meet or exceed the following criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area shall be provided;

b. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other openings provided that they permit the automatic entry and exit of floodwaters.

F. Subdivisions and Large Developments. In all areas of special flood hazard where base flood elevation data have not been provided in accordance with Section 14.07 or Section 14.16(b), Use of Other Base Flood Elevation Data, the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least fifty lots or five acres (whichever is less):

1. The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;

2. If Section 14.20(t)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 14.20 et seq.

14.21. **Floodways.** The Flood Insurance Study referenced in Section 14.07 identifies a segment within areas of special flood hazard known as a floodway. Floodways may also be delineated in other sources of flood information as specified in Section 14.16(b). The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential. The following provisions apply within all delineated floodway areas:

A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or

B. Development in floodway areas causing increases in the base flood evaluation may be permitted provided all of the following are completed by the applicant:

1. Meet the requirements to submit technical data in Section 14.23(a);

2. An evaluation of alternatives that would not result in increased base flood elevations and an explanation why these alternatives are not feasible;

3. Certification that no structures are located in areas that would he impacted by the increased base flood elevation;

4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and Concurrence of the Mayor and the Chief Executive Officer of any other communities impacted by the proposed actions.

14.22. **Assurance Of Flood Carrying Capacity.** Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

A. Development in Riverine Areas with Base Flood Elevations but No Floodways. In Riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,

B. Development in Riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;

2. Meet the requirements to submit technical data in Section 14.23(a);

3. Certification that no structures are located in areas which would be impacted by the increased base flood elevation;

4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and

5. Concurrence of the Mayor or his designee, and the Chief Executive Officer of any other communities impacted by the proposed actions.

14.23. **Map Maintenance Activities.** To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the Village's flood maps, studies and other data identified in Section 14.07 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

A. Requirement to Submit New Technical Data.

1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

    a. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

    b. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;

    c. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

    d. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 14.20(f).

2. It is the responsibility of the applicant to have technical data, required in accordance with Section 14.23(a), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

3. The Mayor or his designee shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

    a. Proposed floodway encroachments that increase the base flood elevation; and

    b. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

4. Floodplain development permits issued by the Mayor or his designee shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 14.23(a)(1).

B. Right to Submit New Technical Data. The Mayor or his designee may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the Village, and may be submitted at any time.

C. Annexation/Detachment. Upon occurrence, the Mayor or his designee shall notify FEMA in writing whenever the boundaries of the Village have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Village's Flood Insurance Rate Map accurately represent the Village boundaries, include within such notification a copy of a map of the Village suitable for reproduction, clearly showing the new corporate limits or the new area for which the Village has assumed or relinquished floodplain management regulatory authority.

14.24. Data Use And Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

A. Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Mayor or his designee.

B. When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:

1. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations,

2. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from

FEMA. Such preliminary data may be subject to change and /or appeal to FEMA.

C. The Mayor or his designee shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 14.17, Appeal Board; Variance Procedure.

D. Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.

14.25. Substantial Damage Determinations. Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Mayor or his designee shall:

A. Determine whether damaged structures are located in special flood hazard areas;

B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and

C. Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Mayor or his designee may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

14.26. Use Regulations

A. Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the Village are allowed provided they meet the provisions of these regulations.

B. Prohibited Uses.

1. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Article 3701 of the Ohio Revised Code.

2. Infectious waste treatment facilities in all special flood hazard areas, permitted under Article 3734 of the Ohio Revised Code.

14.27. Water And Wastewater Systems

The following standards apply to all water supply, sanitary sewerage and waste disposal systems riot otherwise regulated by the Ohio Revised Code:

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

C. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

ARTICLE 15 ADMINISTRATIVE BODIES AND THEIR DUTIES

15.01. **Village Zoning Inspector**. The Village Zoning Inspector is hereby designated as the enforcing officer of this zoning ordinance. Any official or employee of the Village of Phillipsburg may assist the Zoning Inspector by reporting to him any new construction, reconstruction, land use change, or suspected violation.

A. Duties. The Village Zoning Inspector shall be responsible for the following duties.

1. The Zoning Inspector shall review all applications for zoning permits to insure they conform to all applicable provisions of this zoning ordinance, issue such zoning permits when applicable, and maintain a record of all such permits;

2. The Zoning Inspector may periodically conduct on-site inspections to insure the actual construction will conform to the zoning permit;

3. The Zoning Inspector, upon finding that any of the provisions of this zoning ordinance are being violated, shall notify, in writing, the person responsible for such violation and order the action necessary to correct such violation;

4. The Zoning Inspector may order discontinuance of illegal uses of Land, building, or structures;

5. The Zoning Inspector may order removal of illegal buildings or structures or illegal additions or structural alterations;

6. The Zoning Inspector shall review all applicable subdivision plats and lot splits which are submitted to the Village Planning Commission in order to determine if the plat or lot split conforms to all applicable provisions of this zoning ordinance.

15.02. **Village Planning Commission**. The Village Planning Commission shall be responsible for initiating or reviewing proposed amendments to this zoning ordinance and make recommendations to the Village Council in accordance with Article 13, Section 13.04.

15.03. **Board of Zoning Appeals**. A Board of Zoning Appeals is created in accordance with Section 713.11 of the Ohio Revised Code. The hoard of Zoning shall consist of five (5) members, appointed by the Mayor with the advice and consent of Village Council. Members of the Board of Zoning Appeals may be removed for nonperformance of duty, misconduct in office, or other cause by the Village Council, upon written charges being

filed with the Village Council, after public hearing has been held on such charges, and after a copy of the charges has been served, either personally, by registered mail, or by leaving such copy at his/her usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the Mayor with the advice and consent of Village Council for the unexpired term of the member affected. At least one (1) member of the Village Planning Commission shall be a member of the Board of Zoning Appeals. Board of Zoning Appeals members shall serve a five (5) year term and shall be eligible for reappointment.

A. Organization. The Board of Zoning Appeals shall elect its own officers annually and shall adopt the rules necessary to the conduct of its affairs. Meetings shall be held at the call of the chairman and at such other times as the Board of Zoning Appeals may determine. Three (3) members of the Board of appeals shall constitute a quorum for the conducting of business. The chair, or in his/her absence, the acting chair, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public.

B. Official Action. The Board of Zoning Appeals shall act by resolution or motion and shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote indicating such facts, and a statement of the facts of each appeal considered by the Board of Zoning Appeals, and the section of this zoning ordinance where applicable which the Board of Zoning Appeals has considered in approving or disapproving any petition or other matter brought before the Board of Zoning Appeals.

C. Duties. For the purpose of this zoning ordinance the Board of Zoning Appeals has the following specific responsibilities.

1. To hear and decide appeals in accordance with Article 12, Section 12.03 where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector;

2. Where an applicant has provided sufficient evidence to warrant the granting of a variance to authorize such variances from the terms of this zoning ordinance as will not be contrary to the public interest, where, owing to special condition, a literal enforcement of this zoning ordinance will result in unnecessary hardship, and so that the spirit of this zoning ordinance shall be observed and substantial justice

done. The consideration of such variances shall be in accordance with Article 12, Section 12.03;

3. To grant Conditional Use Permits as specified in Article 12, Section 12.02;

4. To determine if uses not specifically mention in this zoning ordinance are similar to uses permitted within a district in accordance with Article 5, Section 5.05;

5. To determine the exact location of any district boundary in accordance with Article 5, Section 5.03 if there is uncertainty as to the exact location involved.

15.04. **Village Council and Mayor**. It is the intent of this zoning ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector, and that such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning Inspector, and that recourse from the decisions of the Board of Zoning Appeals shall be to the courts as provided by law. It is further the intent of this zoning ordinance that the duties of the Village Council and Mayor, in connection with this zoning ordinance, shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in Article 12, Section 12.03.

A. Duties. The Village Council and Mayor shall be responsible for the following duties.

1. The Mayor shall appoint a Zoning Inspector, members of the Village Planning Commission, arid members of the Board of Zoning Appeals with the advice and consent of Village Council;

2. To establish a schedule of fees for issuing zoning permits. appeals, variances, conditional use permits, processing amendments, and any other zoning actions requiring postage, legal advertising. inspections, or general process of applications;

3. To consider and adopt, reject or modify all proposed amendments to this zoning ordinance as provided in Article 13.

ARTICLE 16 ADMINISTRATION PROCEDURES

16.01. **Zoning Permit Required**. No person shall change any use of land, locate, erect, construct, reconstruct, enlarge or structurally alter any building or structure within the Village of Phillipsburg without first obtaining a zoning permit. No zoning permit shall be issued unless the plans for the proposed building or structure or use of land fully comply with the provisions of this zoning ordinance, unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal, a variance, or conditional use. A Zoning Permit shall be required for all dwellings, all principal structures and uses, all accessory structures unless otherwise specified, all specified accessory uses, and all temporary uses.

A. Accompanying Information. A written application and site plan for a zoning permit shall be submitted to the Zoning Inspector on forms provided by the Village of Phillipsburg. The following information shall be required.

1. Name, address, and phone number of applicant;

2. Date;

3. The name of the subdivision and the lot number or other information necessary to establish the location of the lot;

4. The actual dimensions of the lot based on actual survey, including square footage and/or acreage, the yard and other open space dimensions thereof, and the location and size of any existing structures thereon;

5. The location on the lot and size of any proposed structure and/or the proposed alteration of any existing structure, indication dimensions, including building height;

6. The number of proposed dwelling units, and the total residential floor area and the number of bedrooms to be included in each dwelling unit;

7. A permit from the Montgomery County Health Department or Ohio Environmental Protection Agency for an on-site wastewater disposal system, where applicable, illustrating the location of primary and secondary leaching field locations;

8. The proposed parking plan and number and location of proposed off-street parking or loading spaces;

9. A plan for screening when applicable;

10. A statement by the applicant attesting to the truth and exactness of all information supplied on the application;

11. A statement that the permit shall expire and shall be revoked if work has not been started and substantially pursued within one (1) year of its issue date;

12. Such other information as may be necessary to determine conformance with this Zoning Ordinance; and

13. A fee as established by the Village Council.

B. Processing of Permit. Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this zoning ordinance. If the application is approved, the Zoning Inspector shall issue a zoning permit. One (1) copy of the application shall be returned to the applicant by the Zoning Inspector after he/she shall have marked such copy either as approved or disapproved and attested to same by his/her signature on such copy. One (1) copy of the application similarly marked shall be retained by the Zoning Inspector and filed. After the Zoning Inspector issues a Zoning Permit, he/she shall issue a placard to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this zoning ordinance.

C. Certified State Highway Plans. In the event an application involves land within three hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to local officials by the Director of the Ohio Department of Transportation or any land within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Zoning Inspector shall require a third application for a zoning permit and send it to the Director of the Ohio Department of Transportation by registered mail for review. If the Director of the Ohio Department of Transportation notifies the Zoning Inspector that he shall proceed to acquire the land needed, then the Zoning Inspector shall refuse to issue the zoning permit. If the Director of the Ohio Department of Transportation notifies the Zoning Inspector that acquisition at this time is not in the public interest or upon the expiration of the one hundred twenty (120) day period or any extension thereof agreed upon by the Director of the Ohio Department of Transportation and the property owner, the Zoning Inspector shall, if the application is in conformance with all provisions of this zoning ordinance, issue the zoning permit.

16.02. **Conditional Use Permits**. Conditional uses shall be permitted only upon issuance of a conditional use permit by the Board of Zoning Appeals. At a minimum, the application shall contain the following information.

A. Application. An application for a conditional use permit by at least one owner of the property is required prior to any authorization by the Board of Zoning Appeals. At a minimum, the application shall contain the following information.

1. Name, address, and telephone number of applicant;

2. Date;

3. The lot, name, and number or legal description of the property;

4. Description of existing zoning district;

5. Description of the proposed conditional use;

6. A site plan of the proposed site for the conditional use showing the scale, north arrow, location of all buildings, parking and loading areas, traffic access and traffic circulation, sidewalks, curbs, open spaces, landscaping, refuse and service areas, fire hydrants, utilities, rights-of-way, signs, yards, and such other information as the Board of Zoning Appeals may require to determine if the proposed conditional use meets the intent and requirements of this zoning ordinance;

7. A plan for screening when applicable;

8. A narrative statement discussing the merits of the proposal;

9. Such other information as may be required by the Board of Zoning Appeals; and

10. A fee as established by the Village Council.

B. Conditional Use Standards. Conditional uses may be permitted provided that such uses shall be found to comply with the following requirements and all other applicable requirements as set forth in this zoning ordinance.

1. The use is so designed, located and proposed to be operated so that the public health, safety, morals and general welfare will be protected;

2. The use will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance;

3. The use will be designed, constructed, operated, and maintained so that it shall not cause substantial injury to the value of the property in the area or neighborhood where it is to be located;

4. The use shall be compatible with adjoining development and the proposed character of the zoning district where it is to be located;

5. The use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide any such services adequately;

6. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

7. Adequate landscaping and screening are provided, as required;

8. Adequate off-street parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets;

9. The use conforms with all applicable regulations governing the district in which it is located, except as may otherwise be determined for planned unit development;

10. The use is compatible with the goals, objectives, and policies of the Village of Phillipsburg;

11. The use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or vibrations; and

12. Any other supplementary requirements as prescribed by the Board of Zoning Appeals.

C. Processing of Conditional Uses. The Board of Zoning Appeals shall hold a public hearing within twenty (20) days from the receipt of the

application. Before holding the public hearing, notice of such hearing shall be given in one (I) or more newspapers of general circulation within the Village of Phillipsburg at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed conditional use. Before holding the public hearing, written notice of such hearing shall be mailed by the Chair of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers. Within thirty (30) days after the hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the application as presented. If the application is disapproved by the Board of Zoning Appeals, the applicant may seek relief through the Court of Common Pleas.

D. Expiration of Conditional Use Permits. A conditional use permit shall be deemed to authorize only one particular conditional use. The conditional use permit shall automatically expire if, for any reason, the conditional use shall cease for more than six (6) months, or construction is not begun within the amount of time indicated on the conditional use permit.

16.03. Appeals and Variances. It is the purpose of this Section to establish procedures and requirements for the hearing of appeals and variances. As is specified in Article 11, Section 11.03, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

A. Appeals. Appeals to the Board of Zoning Appeals concerning interpretation or administration of this zoning ordinance may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the Village of Phillipsburg affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed was taken.

B. Stay of Proceedings. An appeal stays all proceeding in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him/her, that by reason of facts stated in the application, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be

granted by the Board of Zoning Appeals or by the Court of Common Pleas, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

C. Variance. The Board of Zoning Appeals may authorize, upon appeal in specific cases, such variance from the terms of this zoning ordinance as will not be contrary to the public interest or the intent of this zoning ordinance, but only where strict interpretation would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

D. Application. A variance from the terms of this zoning ordinance shall not be granted by the Board of Zoning Appeals unless the applicant has provided sufficient evidence to warrant the granting of a variance, and a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing, at a minimum, the following information.

1. Name, address, and telephone number of applicant;

2. Legal description of the property;

3. Description of nature of variance requested;

4. A narrative statement demonstrating that the requested variance conforms to the following standards.

    a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

    b. That a literal interpretation of the provisions of this zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this zoning ordinance.

    c. That special conditions and circumstances do not result from the actions of the applicant.

    d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this zoning ordinance to other lands, structures, or buildings in the same district.

e. That an economic hardship, requesting a more intensive use of the property than would normally be permitted, is not the only nor the primary factor for requesting the variance.

5. A fee as established by the Village Council.

E. Granting of Variances. The burden of proof for granting a variance shall rest with the applicant. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this zoning ordinance. Violation of such conditions and safeguards. when made part of the terms under which the appeal or variance is granted, shall be deemed a violation of this zoning ordinance and punishable under Article 14, Section 14.07. Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use prohibited expressly or by implication in the district involved under the terms of this zoning ordinance.

F. Processing Appeals and Variances. The Board of Zoning Appeals shall hold a public hearing within twenty (20) days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

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

Before holding the required public hearing, written notice of such hearing shall be mailed by the Chair of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest The notice shall contain the same information as required of notices published in newspapers.

The Board of Zoning Appeals shall decide upon the application within a reasonable amount of time, not to exceed thirty (30) days.

16.04. **Building Permit**. Must Conform. No building or other structure shall be erected, moved, added to, or structurally altered without a building permit. No building permit shall be issued unless a zoning permit or certificate of zoning compliance approved by the zoning inspector shall accompany the application for such building permit.

16.05. **Certificate of Zoning Compliance**. It shall be a violation of this zoning ordinance to use or occupy or permit the use or occupancy of any building

or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the Zoning Inspector stating that the proposed use of the building or land conforms to the requirements of this zoning ordinance. This provision shall apply to all buildings and uses. Application for a certificate of zoning compliance shall be accompanied by a fee established by Village Council.

ARTICLE 17 AMENDMENT

The Village Council may, from time to time, amend, supplement, change, or repeal this zoning ordinance in the manner prescribed by Section 713.12 of the Ohio Revised Code and in accordance with the following.

17.01. **Application for Amendments**. All applications for amendment submitted by property owners shall contain, at a minimum, the following information.

A. Name, address, and telephone number of applicant;

B. Date;

C. Legal description of the property;

D. Present use;

E. Present zoning district;

F. Proposed use;

G. Proposed zoning district;

H. A vicinity map at a scale approved by the Village Planning Commission showing property lines, streets, existing and proposed zoning, and such other items as the Village Planning Commission may require;

I. Proposed amendment to the text;

J. A list of all property owners within two-hundred (200) feet of, contiguous to, and directly across the street from the parcel(s) proposed to be rezoned, and others that may have a substantial interest in the case;

K. A statement on how the proposed amendment relates to the goals, objectives, and policies of the Village of Phillipsburg; and

L. A fee as established by the Village Council.

Such application shall be filed in duplicate.

17.02. **Referral to Village Plannin2 commission Required**. All such amendment proposals except those originating with the Village Planning Commission shall he referred to the Village Planning Commission for a recommendation thereon. The Village Council shall take no final action on any amendment, supplement, change. or repeal until it has received and studied the recommendation of the Village Planning Commission.

17.03. **Recommendation of Village Planning Commission**. Within thirty (30) days after adoption of a motion to originate such amendment, or receipt of an application for such amendment, or receipt of a resolution by Village Council to originate such amendment, the Village Planning Commission shall forward a recommendation to the Village Council.

17.04. **Public Hearing by Village Council**. Upon receipt of the recommendation from the Village Planning Commission, the Village Council shall schedule a public hearing. The date of said hearing shall be not more than forty (40) days from the receipt of the recommendation from the Village Planning Commission.

Notice of the required public hearing shall be given by the Village Clerk/Treasurer by at least one (I) publication in a newspaper of general circulation within the Village of Phillipsburg. Said notice shall be published at least thirty (30) days before date of the required hearing.

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Village Clerk/Treasurer, by first class mail, at least thirty (30) days before the date of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment.

17.05. **Action by Village Council**. After the required public hearing, the Village Council shall either adopt or deny the recommendation of the Village Planning Commission or adopt some modification thereof. In the event the Village Council denies or modifies the recommendation of the Village Planning Commission, a three-fourths (3/4) vote of the Village Council shall be required.

17.06. **Amendment Limitation**. Applications for zoning amendment, conditional use permits, or variances concerning any parcel of property, portion thereof, or use thereon shall not be accepted for consideration more than once during any consecutive twelve (12) month period unless it can be substantiated by the applicant that conditions pertinent to the proposal have changed so significantly as to warrant another review of the proposal.

ARTICLE 18 PENALTIES

18.01. **Violation is Nuisance Per Se: Abatement**. Buildings or structures erected, altered, razed, or converted, or used carried out in violation of any provision of this ordinance, including violations of conditions and safeguards established by the Board of Zoning Appeals for conditional uses and variances, are hereby declared to be nuisance per se. The district court shall order such nuisance abated and the owner or agent in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se.

18.02. **Remedies**. If any building or land is used, altered, constructed, enlarged or any such action proposed in violation of the provisions of this zoning ordinance or any amendment or supplement thereto, the Village Attorney, the Zoning Inspector, any person or any property owner damaged by or subject to damage by such violation in addition to other remedies provided by law is hereby empowered or authorized to institute appropriate action or proceedings to prevent such unlawful location erection, construction, reconstruction, alteration, enlargement, change, maintenance, or use.

18.03. **Other Action**. Nothing herein contained shall prevent the Village of Phillipsburg from taking such other lawful action as is necessary to prevent or remedy any violation.

18.04. **Affected Parties**. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who knowingly commits, participates in, assists in, or maintains a violation may be found guilty of a separate offense and suffer the penalties herein provided.

18.05. **Inspections**. The Zoning Inspector is authorized to make inspections of buildings and premises located within the Village of Phillipsburg for purposes of enforcing the provisions of this zoning ordinance. For the purpose of making such inspections, and upon showing appropriate identification, the Zoning Inspector is hereby authorized to examine and survey all premises at any reasonable hour.

Prior to seeking entry to a property for purposes of making inspections necessary to enforce the provisions of this zoning ordinance, the Zoning Inspector or designate thereof shall attempt to obtain the owner's or occupant's permission to inspect. If such permission is denied or is unable to be obtained, the enforcement office shall request assistance from the Law Director in securing a valid search warrant.

18.06. **Notice of Violation**.

A. Content. Whenever the Zoning Inspector determines that there is a violation of the provisions of this zoning ordinance, he/she may give

notice of such violation to the property owner or other persons responsible therefore and order compliance, as hereinafter provided. Such notice and order shall:

1. Be in writing;

2. Include description of the real estate sufficient for identification;

3. Include a statement of the reason or reasons why it is being issued;

4. Include a correction or order allowing a reasonable time to bring the property into compliance with the provisions of this ordinance; and

5. State the right of the violator to appeal the notice to the Board of Appeals within ten (10) days of receipt of the notice.

B. Service. A notice of violation shall be deemed to be properly served if one or more of the following methods are used:

1. By personal delivery to the owner or occupant of the premises or by leaving the notice at the premises or the usual place of residence of the owner with a person of suitable age and discretion; or

2. By certified mail deposited in the United States Post Office addressed to the person or persons responsible at his/their last known address, with return receipt requested. If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Zoning Inspector. Service shall be deemed complete when the fact of mailing is entered of record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery; or

3. By posting a copy of the notice form in a conspicuous place on the premises found in violation and publishing a legal notice once a week for two (2) consecutive weeks in a newspaper of general circulation within the Village of Phillipsburg. The legal notice shall identify the owners of the property, the last address, if known, of the owners, the parcel identification, the location and nature of the violation.

18.07. Penalties.

A. Whoever violates or fails to comply with any provision of this zoning ordinance, or any amendment or supplement thereto, upon conviction, shall be guilty of the following offenses and shall be subject to the following penalties:

1. For a first offense, a minor misdemeanor. The Court shall impose upon the offender a fine of not more than one hundred dollars ($100). In addition, the offender shall pay all costs and expenses involved in the case.

2. For a second offense (whether or not of the same section of the Zoning Ordinance), the citation for which is issued not sooner than twenty (20) days and not later than two (2) years after the date of the offender's last conviction for a violation of the zoning ordinance, a misdemeanor of the fourth degree. The Court shall impose upon the offender a fine of not less than two hundred fifty dollars ($250), no portion of which may be suspended. In addition, the offender shall pay all costs and expenses involved in the case.

3. For a third offense (whether or not of the same section of the Zoning Ordinance), the citation for which is issued not sooner than twenty (20) days after the second offense and not later than two (2) years after the offender's last conviction for a violation of the zoning ordinance, a misdemeanor of the third degree. The Court shall impose upon the offender a fine of not less than five hundred dollars ($500), no portion of which may be suspended. In addition, the offender shall pay all costs and expenses involved in the case.

4. For a fourth offense and for each subsequent offense (whether or not of the same section of the Zoning Ordinance), the citation for which is issued not sooner than twenty (20) days after the third offense and not later than two (2) years after the offender's last conviction for a violation of the zoning ordinance, a misdemeanor of the third degree. The Court shall impose upon the offender a fine of not less than five hundred dollars ($500), no portion of which may be suspended, or shall impose a sentence of imprisonment for not more than thirty (30) days, or may impose both such a fine and sentence of imprisonment. In addition, the offender shall pay all costs and expenses involved in the case.

5. Any offense that is committed by a previous offender for which a citation is issued more than two years after the offender's last conviction for a violation of the zoning ordinance shall be treated as a first offense.

B. In case any building is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is, or is proposed to be used in violation of this zoning ordinance or any amendment or supplement thereto, the Zoning Inspector, the City Attorney, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, enlargement, change, maintenance or use.