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## PREAMBLE

An ordinance of the Village of Moscow, enacted in accordance with a comprehensive plan and the provisions of Chapter 713, Ohio Revised Code, dividing the Village into zones and districts, encouraging, regulating, and restricting therein the location, construction, reconstruction, alteration and use of structures and land; promoting the recreational and public areas; providing for adequate light, air, and convenience of access to property by regulating the use of land and buildings and the bulk structures in relationship to surrounding properties; limiting congestion in the public right-of-ways; providing the compatibility of different land uses and the most appropriate use of land; providing for the administration of this ordinance defining the powers and duties of the administrative officers as provided hereafter, and prescribing penalties for the violation of the provisions in this Ordinance or any amendment thereto, all for the purpose of protecting the public health, safety, comfort and general welfare; and for the repeal thereof,

THEREFORE, BE IT ORDAINED by the Council of the Village of Moscow, State of Ohio:

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**ARTICLE 1 TITLE, INTERPRETATION, AND ENACTMENT**

100 TITLE

This ordinance shall be known and may be cited to as the "Zoning Ordinance of the Village of Moscow, Ohio."

110 PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this ordinance conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing the higher standards shall govern.

120 SEPARABILITY CLAUSE

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

130 REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE

All ordinances or resolutions or parts of ordinances or resolutions in conflict with this zoning ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect. This ordinance shall become effective from and after the date of its approval and adoption, as provided by law.

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## ARTICLE 2 DEFINITIONS

### 200 INTERPRETATION OF TERMS OR WORDS

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

- (1) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (3) The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
- (4) The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- (5) The word "lot" includes the words "plot" or "parcel."

### 201 DEFINITIONS

**ACCESSORY USE or ACCESSORY STRUCTURE:** A use of a structure on the same lot with, and of a nature that is customarily incidental and subordinate to, the building or dwelling located thereon. ~~(amended 4/95)~~

**ALTERATIONS, STRUCTURAL:** Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

**AUTOMOTIVE REPAIR:** The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

**AUTOMOTIVE, MOBILE HOME, TRAVEL TRAILER, and FARM IMPLEMENT SALES:** The sale or rental of new and used motor vehicles, mobile homes, travel trailers, or farm implements, but not including repair work except incidental warranty repair of same, to be displayed and sold on the premises.

**AUTOMOTIVE WRECKING:** The dismantling or wrecking of used motor vehicles, mobile homes, trailers or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

**BASEMENT:** A story all or partly underground but having at least one-half of its height below the average level of the adjoining ground.

**BUILDING:** Any structure designed or intended for the support, enclosure, shelter, or protection of person, animals, chattels, or property.

**BUILDING, ACCESSORY:** A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the main building or use.

**BUILDING, HEIGHT:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING LINE:** See Setback Line.

**CLINIC:** A place used for the care, diagnosis and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but who are provided with board or room or kept overnight on the premise.

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

**COMPREHENSIVE DEVELOPMENT PLAN:** A plan, or any portion thereof, adopted by the planning commission and the legislative authority of the Village of Moscow showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the community.

**CORNER LOT:** See Lot Types.

**DENSITY:** A unit of measurement; the number of dwelling units per acres of land.

Gross Density - the number of dwelling units per acre of the total land to be developed.

Net Density - the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

**DWELLING UNIT:** Space, within a dwelling, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one family and its household employees.

**DWELLING:** Any building or structure (except a house trailer or mobile home as defined by Ohio Revised Code 4501.01) which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

Single Family: A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

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

**Multi-Family:** A dwelling consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls. Multi-family housing may include public housing and industrialized units.

**Rooming House (Boarding House, Lodging House, Dormitory):** A dwelling or part thereof, other than a hotel, motel or restaurant where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in the individual rooms.

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

**FAMILY:** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over five persons.

**FLOOR AREA, RESIDENTIAL BUILDING:** Floor area is the horizontal area of a dwelling devoted to residential living purposes, including stairways, halls, and closets within the dwelling unit, but excluding porches and spaces used for a garage or carport. In multi-family dwellings, the area of laundry rooms, storage rooms, offices, elevators, stairways, and hallways shall be excluded from residential floor areas. All dimensions shall be measured between interior faces of walls. ~~(amended 2/93)~~

**FLOOR AREA, NON-RESIDENTIAL BUILDING (To Be Used in Calculating Parking Requirements):** The floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, and fitting rooms, and similar areas.

**FLOOR AREA, USABLE:** Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**FOOD PROCESSING:** The preparation, storage, or processing of food products. Examples of these activities include bakeries, dairies, canneries, and other similar businesses.

**GARAGE, PRIVATE:** A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers and/or boats of the occupants of the premises and wherein:

- (1) Nor more than one space is rented for parking to person not resident on the premises;
- (2) No more than one commercial vehicle per dwelling unit is parked or stored;
- (3) The commercial vehicle permitted does not exceed two tons capacity.

**GARAGE, PUBLIC:** A principal or accessory building other than a private garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

**GARAGE, SERVICE STATION:** Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicle accessories may be supplied and dispensed at retail, and where in addition, the following services may be rendered and sales made:

- (1) Sales and service of spark plugs, batteries, and distributors parts;
- (2) Tire servicing and repair, but not recapping or regrooving;
- (3) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like;
- (4) Radiator cleaning and flushing;
- (5) Washing, polishing, and sale of washing and polishing materials;
- (6) Greasing and lubrication;
- (7) Providing and repairing fuel pumps, oil pumps, and lines;
- (8) Minor servicing and repair of carburetors;
- (9) Adjusting and repairing brakes;
- (10) Minor motor adjustment not involving removal of the head or crankcase or racing the motor;
- (11) Sales of cold drinks, packaged food, tobacco, and similar convenience goods for service station customers, as accessory and incidental to principal operations;
- (12) Provisions of road maps and other informational material to customers, provision of rest room facilities;
- (13) Warranty maintenance and safety inspections.

Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling station. A filling station is neither a repair garage nor a body shop.

**HOME OCCUPATION:** Any occupation conducted entirely within a dwelling unit and carried on by persons residing in the dwelling unit which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not involve any extension or modification of the said dwelling which would alter its outward appearance as a dwelling.

**HOTEL or MOTEL and APARTMENT HOTEL:** A building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such it is open to the public in contradistinction to a boarding house, rooming house, lodging house, or dormitory which is herein separately defined.

**INSTITUTION:** Building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling, or other correctional services.

**JUNK BUILDINGS, JUNK SHOPS, or JUNK YARDS:** Any land, property, structure, building, or combination of the same, on which junk is stored or processed.

**LOADING SPACE, Off-Street:** Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

**LOCATION MAP:** See Vicinity Map.

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

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

**LOT COVERAGE:** The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

**LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

LOT LINE: The lines that describe the out boundary of a lot or parcel of land. (~~amended 4/95~~)

LOT, MINIMUM AREA: The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

LOT MEASUREMENTS: A lot shall be measured as follows:

Depth: The distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Width: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line.

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

LOT TYPES: Terminology used in this ordinance with reference to corner lots, interior lots and through lots is as follows:

Corner Lot: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Interior Lot: A lot with only one frontage on a street.

Through Lot: A lot other than a corner lot with frontage on more than one street.

Through lots abutting two streets may be referred to as double frontage lots.

Reversed Frontage Lot: A lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

MAINTENANCE and STORAGE FACILITIES: Land, buildings, and structures devoted primarily to the maintenance and storage of construction equipment and material.

MANUFACTURING, HEAVY: Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances and such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the district boundary.

MANUFACTURING, LIGHT: Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous

elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances.

**MOBILE HOME:** Any non-self-propelled vehicle so designed, constructed, reconstructed or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, when connected to utilities, whether resting on wheels, jacks, blocks, or other temporary foundation and used or so construed as to permit its being used as a conveyance upon the public streets and highways and exceeding a gross weight of four thousand five hundred (4,500) pounds and an overall length of thirty (30) feet.

**NON-CONFORMITIES:** A building, structure or use of land existing at the time of enactment of this ordinance and which does not conform to the regulations of the district or zone in which it is situated.

**NURSERY, NURSING HOME:** A home or facility for the care and treatment of babies, children, pensioners, or elderly people.

**NURSERY, PLANT MATERIALS:** Land, building, structure, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping.

**OPEN SPACE:** An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts, any other recreational facilities that the planning commission deems permissive. Streets, parking areas, structures for habitation, and the like shall not be included.

**PARKING SPACE, OFF-STREET:** For the purpose of this ordinance an off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.

**PERFORMANCE BOND or SURETY BOND:** An agreement by a subdivider or developer with the Village for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.

**PERSONAL SERVICES:** Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors, and similar activities.

**PLANNED UNIT DEVELOPMENT:** An area of land in which a variety of housing types and subordinate commercial and industrial facilities are accommodated in a preplanned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations. The procedure for approval of such development contains requirements in addition to those of the standard subdivision, such as building design principles and landscaping plans.

**PROFESSIONAL ACTIVITIES:** The use of offices and related spaces for such professional services are provided by medical practitioners, lawyers, architects, and engineers, and similar professions.

**PUBLIC SERVICE FACILITY:** The erection, construction, alteration, operation, or maintenance of buildings, power plants, or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water and sewage services.

**PUBLIC USES:** Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

**PUBLIC WAY:** An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway right-of-way, road, sidewalk, street, subway, tunnel viaduct, walk, bicycle path; or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

**QUASI-PUBLIC USE:** Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or non-profit nature.

**RECREATION FACILITIES:** Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadiums, and bowling alleys.

**RIGHT-OF-WAY:** A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or

treatment) such as grade separation, landscaped areas, viaducts and bridges. ~~It shall be deemed to be at least 50 feet (but not less than the actual width of the road).~~

***Replace this section with actual ROW dimensions.***

SEAT: For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs.

SETBACK LINE: A line established by the zoning ordinance generally parallel with and measured by the lot line, defining the limits of a yard in which no building, other than accessory building, or accessory structure may be located above ground, except as may be provided in said ordinance. ~~(amended 4/95)~~

SEWERS, SANITARY: A publicly operated sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

SIDEWALK: That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

SIGN: Any device designated to inform or attract the attention of persons not on the premises on which the sign is located.

Sign, On-Premises: Any sign related to a business or profession conducted, or a commodity or service sold or offered upon the premises where such sign is located.

Sign, Off-Premises: Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located.

Sign, Illuminated: Any sign illuminated by electricity, gas, or other artificial light including reflecting or phosphorescent light.

Sign, Light Device: Any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.

Sign, Projecting: Any sign which projects from the exterior of the building.

STORY: That part of a building between the surface of a floor and the ceiling immediately above.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, dwellings and mobile homes. Structure does not include the following:

- 1) Poles, frames, trellises and the like that are generally temporary and associated with gardening;
- 2) Flag poles;
- 3) Bird houses, bird feeders, bee hives, swing sets, play equipment and wood stacks;
- 4) Sidewalks and masonry patios (or of similar materials) not exceeding 8 inches above the existing grade;
- 5) Clothes lines and poles. (~~amended 4/95~~)

**SUPPLY YARDS:** A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.

**SWIMMING POOL:** A pool, pond, lake, or open tank containing at least 1.5 feet of water at any point and maintained by the owner or manager.

**Private Pool:** Exclusively used without paying an additional charge for admissions by the residents and guests of a single household, a multi-family development, or a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.

**Community Pool:** Operated with a charge for admission, a primary use.

**THOROUGHFARE, STREET, or ROAD:** The full width between property lines bounding every public way or whatever nature with a part thereof to be used for vehicular traffic.

**Alley:** A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.

**Arterial Street:** A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous route.

**Collector Street:** A thoroughfare, whether within a residential, industrial, commercial or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.

**Cul-de-Sac:** A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.

**Dead-end Street:** A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.

**Local Street:** A street primarily for providing access to residential or other abutting property.

Loop Street: A type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of the one hundred and eighty (180) degree system of turns are not more than one thousand (1000) feet from said arterial or collector street, nor normally more than six hundred (600) feet from each other.

Marginal Access Street: A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called Frontage Street.)

THROUGH LOT: See Lot Types.

TRANSPORTATION, DIRECTOR OF: The Director of the Ohio Department of Transportation.

UNIT: See Dwelling Unit.

Unit, Efficiency: A dwelling unit consisting of one bathroom and one other room which constitutes the entire living area of said unit.

Unit, One (1) Bedroom: A dwelling unit consisting of two rooms (unless one is distinctly separated and equipped as a kitchen and in such case it shall be three (3) rooms), plus at least one bathroom.

Unit, Two (2) Bedroom: A dwelling unit consisting of three rooms (unless one is distinctly separated and equipped as a kitchen and in such case, it shall be four (4) rooms), plus at least one bathroom.

Unit, Three (3) Bedroom: A dwelling unit consisting of four rooms (unless one is distinctly separated and equipped as a kitchen and in such case, it shall be five (5) rooms) plus at least one bathroom.

USE: The specific purposes for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE: A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, or his predecessors in title, a literal enforcement of the regulations would result in unnecessary and undue hardship.

VETERINARY ANIMAL HOSPITAL or CLINIC: A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the

premises for the treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity.

VICINITY MAP: A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.

WALKWAY: A public way, four (4) feet or more in width, for pedestrian use only, whether along the side of a road or not.

YARD: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward; provided, accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front: A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.

Yard, Rear: A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

Yard, Side: A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

ZONING PERMIT: A document issued by the Zoning Inspector authorizing the use of lots, structures, uses of land and structures and characteristics of the uses

## ARTICLE 3 ENFORCEMENT

### 300 ZONING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefor issued by the Zoning Inspector Administrator. Zoning permits shall be issued only in conformity with the provisions of this ordinance unless the Zoning Inspector Administrator receives a written order from the Board of Zoning Appeals deciding an appeal, or variance or from Village Council, approving a Planned Unit Development District, as provided by this ordinance.

### 301 CONTENTS OF APPLICATION FOR ZONING PERMIT

The application for zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall contain language that clearly states that the permit shall expire, or may be revoked, if work has not begun within one year from the date of issue of the permit or the project is not substantially completed within two and one-half (2 ½) years of the date of issue of the permit. At a minimum, the application shall contain the following information:

- 1) Name, address, and phone number of applicant;
- 2) Name and address of property owner (if different from applicant);
- 3) ~~Legal description of property or the property address and auditor's parcel number;~~ Address of property;
- 4) Existing use;
- 5) Proposed use;
- 6) ~~Zoning district;~~
- 7) Plans in ~~triplicate~~ duplicate drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of all existing and proposed buildings and structures on the lot; complete floor plan and elevations of all proposed structures; location, size, and details of all signage (if applicable); location, quantity, and size of parking spaces (if applicable); ~~existing building or buildings on the lot if any; and the location and dimensions of the proposed building(s) or alteration;~~
- 6) Legal description of property;
- 9) ~~Building heights;~~
- 10) ~~Number of off-street parking spaces or loading berths;~~

- 11) ~~Number of dwelling units;~~
- 12) ~~A listing of all adjoining property owners including those across public right-of-way said listing to show said owners tax mailing addresses.~~
- 7) Such other ~~matters~~ information as may be necessary to determine conformance with and provide for the enforcement of this ordinance.

### 302 APPROVAL OF ZONING PERMIT

Within thirty (30) days after the receipt of an application, the Zoning ~~Inspector~~ Administrator shall either approve or disapprove the application in conformance with the provisions of this ordinance. One copy of the plans shall be returned to the applicant by the Zoning ~~Inspector~~ Administrator, after the Zoning ~~Inspector~~ Administrator shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of plans, similarly marked, shall be retained by the Zoning ~~Inspector~~ Administrator. The Zoning ~~Inspector~~ Administrator shall issue a ~~placard~~ permit 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 ordinance.

### 303 SUBMISSION TO DIRECTOR OF TRANSPORTATION

Before any zoning permit is issued affecting any 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 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~~ Administrator shall give notice, by registered mail to the Director of Transportation that he shall not issue a zoning permit for one-hundred twenty (120) days from the date the notice is received by the Director of Transportation. If the Director of Transportation notifies the Zoning ~~Inspector~~ Administrator that he shall proceed to acquire the land needed, then the Zoning ~~Inspector~~ Administrator shall refuse to issue the zoning permit. If the Director of Transportation notifies the Zoning ~~Inspector~~ Administrator 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 the Director of Transportation and the property owner, the Zoning ~~Inspector~~ Administrator shall, if the application is in conformance with all provisions of this ordinance, issue the zoning permit.

#### 304 EXPIRATION OF ZONING PERMIT

If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire and shall be revoked by the Zoning ~~Inspector~~ Administrator; written notice thereof shall be given to the person who submitted the application by mailing a copy of such revocation to said applicant. If the work described in any zoning permit has not been substantially completed within two and one-half (2 ½) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning ~~Inspector~~ Administrator; written notice thereof shall be given to the person who submitted the application by mailing a copy of such revocation to said applicant, together with notice that further work as described in the revoked permit shall not proceed unless and until a new zoning permit has been obtained.

#### 310 CERTIFICATE OF OCCUPANCY

It shall be unlawful 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 occupancy shall have been issued therefore by the Zoning ~~Inspector~~ Administrator stating that the proposed use *or occupancy* of the building or *premises is lawful and meets all applicable conditions of this code.*

#### 311 TEMPORARY CERTIFICATE OF OCCUPANCY

A temporary certificate of occupancy may be issued by the Zoning ~~Inspector~~ Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion.

#### 312 RECORD OF ZONING PERMITS AND CERTIFICATES OF OCCUPANCY

The Zoning ~~Inspector~~ Administrator shall maintain a record of all zoning permits and certificates of occupancy and copies shall be furnished upon request by any person.

#### 320 FAILURE TO OBTAIN A ZONING PERMIT or CERTIFICATE OF OCCUPANCY

Failure to obtain a zoning permit or certificate of occupancy shall be a violation of this ordinance and punishable under Section 350 of this ordinance.

### 330 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES

Zoning permits or certificates of occupancy issued on the basis of plans and applications approved by the Zoning ~~Inspector~~ Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this ordinance and punishable as provided in Section 350 of this ordinance.

### 340 COMPLAINTS REGARDING VIOLATION

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning ~~Inspector~~ Administrator. The Zoning ~~Inspector~~ Administrator shall record properly such complaint, immediately investigate the complaint, and shall take action thereon as provided by this ordinance.

### 350 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in various sections of this ordinance shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days, or both, and in addition shall pay all costs and expenses involved in the prosecution of the violation. Each day such violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, sub-contractor, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation hereof.

### 360 SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Village Council shall by separate ordinance establish a schedule of fees, charges and expenses and a collection procedure for zoning permits, amendments, appeals, variances, plan approvals, and other matters pertaining to the administration and enforcement of this ordinance requiring investigations, inspections, legal advertising,

postage, and other expenses. The schedule of fees shall be posted in the office of the Zoning ~~Inspector~~ Administrator, and may be altered or amended by Village Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

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## **ARTICLE 4 NON-CONFORMITIES**

### **400 INTENT**

Within the districts established by this ordinance or amendments that may later be adopted there exist lots, uses of land, structures, and uses of structures and land in combination which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

### **410 INCOMPATIBILITY OF NON-CONFORMITIES**

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

### **420 AVOIDANCE OF UNDUE HARDSHIP**

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

### **430 SINGLE NON-CONFORMING LOTS OF RECORD**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variances of requirements listed in Articles 9 and 10 of this ordinance other than lot area or lot width shall be obtained only through action of the Board of Zoning Appeals as provided in Sections 540 through 549.

#### 431 NON-CONFORMING LOTS OF RECORD IN COMBINATION

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots with no building 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 ordinance. Said lots or combination of lots shall not be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this ordinance.

#### 440 NON-CONFORMING USES IF LAND

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

- 1) No such non-conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this ordinance.
- 2) No such non-conforming use or uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use or uses at the effective date of adoption or amendment of this ordinance.
- 3) If any such non-conforming 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 such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

- 4) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

#### 450 NON-CONFORMING STRUCTURES

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

- 1) No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity but any structure or portion thereof may be altered to decrease its non-conformity;
- 2) Should such non-conforming structure or non-conforming portion of structure be destroyed by any means, it shall not be reconstructed except in conformity with the provisions of this ordinance;
- 3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### 460 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION

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

- 1) No existing structure devoted to a use not permitted by this 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;
- 2) Any non-conforming 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 ordinance but no such use shall be extended to occupy any land outside such building;

- 3) If no structural alterations are made, any non-conforming use of a structure or structure and land, may, upon appeal to the Board of Zoning Appeals, be changed to another non-conforming use provided that the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of this ordinance;
- 4) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;
- 5) When a non-conforming use of a structure, or structure and land in combination is discontinued or abandoned for more than one (1) year (except when governmental action impedes access to the premises), the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;
- 6) Where non-conforming uses status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

#### 470 REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### **ARTICLE 5 ADMINISTRATION**

500 OFFICE OF ZONING INSPECTOR ADMINISTRATOR CREATED

A Zoning Inspector Administrator designated by the Mayor shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the Mayor may direct. ~~(amended 2/93)~~

501 DUTIES OF ZONING INSPECTOR

For the purpose of this ordinance, the Zoning Inspector Administrator shall have the following duties:

- 1) Upon finding that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation;
- 2) Order discontinuance of illegal uses of land, buildings, or structures;
- 3) Order removal of illegal buildings or structures or illegal additions or structural alterations;
- 4) Order discontinuance of any illegal work being done;
- 5) Take any other action authorized by this ordinance to ensure compliance with or to prevent violations(s) of this ordinance. This may include the issuance of and action on zoning and certificate of occupancy permits and such similar administrative duties as are permissible under the law.

509 PLANNING COMMISSION HEREBY CREATED

A Planning Commission for the Village is hereby created and exists under the authority of Ohio Revised Code Section 713.01 and shall consist of five members made up of the following:

- 1) Mayor
- 2) One member of the Village Council to be elected thereby for the remainder of his term as such member of the Council, and
- 3) Three citizens of the Village to be appointed by the Mayor for terms of six (6) years each, except that the term of one of the members of the first commission shall be for four (4) years and one for two (2) years. All such members shall serve without compensation.

Said commission shall have all the powers conferred in Section 735.15 of the Ohio Revised Code.

510 PROCEEDINGS OF PLANNING COMMISSION

The Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be a public record and be immediately filed in the office of the Commission.

#### 511 DUTIES OF PLANNING COMMISSION

For the purpose of this ordinance the Commission shall have the following duties:

- 1) Initiate proposed amendments to this ordinance;
- 2) Review all proposed amendments to this ordinance and make recommendations to the Village Council, as specified in Article 6;
- 3) Review all planned unit developments and make recommendations to the Village Council as provided in Article 8.

#### 520 BOARD OF ZONING APPEALS CREATED

A Board of Zoning Appeals is hereby created, which shall consist of five (5) members to be appointed by the Mayor each for a term of five (5) years, except that the initial appointments shall be one (1) member each for one (1), two (2), three (3), four (4), and five (5) year terms. Each member shall be a resident of the Village. Members of the Board may be removed from office by the Village Council, for cause upon written charges and after public hearing. Vacancies shall be filled by appointment by the Mayor for the unexpired term of the member affected.

#### 521 PROCEEDINGS OF THE BOARD OF ZONING APPEALS

The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

## 522 DUTIES OF THE BOARD OF ZONING APPEALS

In exercising its duties, the Board may, as long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Inspector Administrator from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Inspector Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in the application of this ordinance. For the purpose of this ordinance the Board has the following specific responsibilities:

- 1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Zoning Inspector Administrator;
- 2) To authorize such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done;
- 3) Decide upon the exact location of the boundary or boundaries of districts as shown on the official zoning map should there be a dispute as to their actual location;
- 4) To grant permits for uses in industrial districts.

## 530 DUTIES OF ZONING INSPECTOR ADMINISTRATOR, BOARD OF ZONING APPEALS, LEGISLATIVE AUTHORITY AND COURTS ON MATTERS OF APPEAL

It is the intent of this ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Inspector Administrator, and that such questions shall be presented to the board only on appeal from the decision of the Zoning Inspector Administrator, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this ordinance that the duties of the Village Council in connection with this 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 this section and this ordinance. Under this ordinance the Village Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this ordinance as provided by law, and

of establishing a schedule of fees and charges as stated in Section 360 of this ordinance. Nothing in this ordinance shall be interpreted to prevent any official of the Village from appealing a decision of the Board to the Courts as provided in Chapters 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within ten (10) days of the Board's written decision.

#### 540 PROCEDURE AND REQUIREMENTS FOR APPEALS AND VARIANCES

Appeals and variances shall conform to the procedures and requirements of Sections 541-549, inclusive, of this ordinance. As specified in Section 522, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

#### 541 APPEALS

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the legislative authority of the Village affected by any decision of the Zoning ~~Inspector~~ Administrator. Such appeal shall be taken within twenty (20) days after the decision by filing, with the Zoning ~~Inspector~~ Administrator and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning ~~Inspector~~ Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

#### 542 STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning ~~Inspector~~ Administrator from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his 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 a Court of record. The restraining order shall be issued only on application to the appropriate body, with written notice to the Zoning ~~Inspector~~ Administrator from whom the appeal is taken, and upon a showing of due cause.

#### 543 VARIANCES

The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest

where, owing to special conditions, a literal enforcement of the provisions of this ordinance 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. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this ordinance would result in unnecessary hardship.

#### 544 APPLICATION AND STANDARDS FOR VARIANCES

A variance from the terms of this ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Inspector Administrator and the Board of Zoning Appeals containing:

- 1) Name, address, and telephone number of applicant(s);
- 2) Legal description of 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 ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this 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 ordinance to other lands, structures, or buildings in the same district.
- 5) Complete listing of names and addresses of all adjoining landowners including those across rights-of-way.
- 6) A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed by subsection 4 of this section have been met by the applicant.

545 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with the ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appealed variance is granted, shall be deemed a violation of this ordinance and punishable under Section 350 of this ordinance.

546 PUBLIC HEARING BY THE BOARD OF ZONING APPEALS

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~~ Administrator or an applicant.

547 NOTICE OF PUBLIC HEARING IN NEWSPAPER

Before holding the public hearing required in Section 546, notice of such hearing shall be given in one or more newspapers of general circulation in the Village 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.

548 NOTICE TO PARTIES IN INTEREST

Before holding the public hearing required in Section 546, written notice of such hearing shall be mailed by the Chairman 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 including adjoining landowners. The notice shall contain the same information as required of notices published in newspapers as specified in Section 547.

549 ACTION BY BOARD OF ZONING APPEALS

Within thirty (30) days after the public hearing required in Section 546, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 545, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land,

building, or structure. Appeals from Board decisions shall be made in the manner specified in Section 530.

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## ARTICLE 6 AMENDMENT

### 600 PROCEDURE FOR AMENDMENT OR DISTRICT CHANGES

This ordinance may be amended utilizing the procedures specified in Sections 602 through 612, inclusive, of this ordinance.

### 601 GENERAL

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

### 602 INITIATION OF ZONING AMENDMENTS

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

- 1) By adoption of a motion by the Planning Commission;
- 2) By adoption of a resolution by Village Council;
- 3) By the filing of an application by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

### 603 CONTENTS OF APPLICATION

Applications for amendments to the Official Zoning Map adopted as part of this ordinance by Section 700 shall contain at least the following information:

- 1) Name, address, and telephone number of applicant;
- 2) Proposed amending ordinance, approved as to form by the Village Law Director;
- 3) Present use;
- 4) Present zoning district;
- 5) Proposed use;
- 6) Proposed zoning district;
- 7) A vicinity map at a scale approved by the Zoning ~~Inspector~~ Administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the Zoning Inspector may require;
- 8) A list of all property owners and their mailing addresses who are within, contiguous to, or directly across from the parcel(s) proposed to be rezoned and all others that may have a substantial interest in the case, as determined

by the Zoning Inspector Administrator, except that addresses need not be included where more than ten (10) parcels are to be rezoned;

9) A statement on how the proposed amendment relates to the comprehensive plan;

10) A fee as established by Village Council, according to Section 360. Applications for amendments proposing to amend, supplement, change, or repeal portions of this ordinance other than the Official Zoning Map shall include items (1), (2), (9) and (10) listed above.

#### 604 TRANSMITTAL TO PLANNING COMMISSION

Immediately after the adoption of a resolution by the Village Council or the filing of an application by at least one (1) owner or lessee of property, said resolution or application shall be transmitted to the Planning Commission.

#### 605 SUBMISSION TO DIRECTOR OF TRANSPORTATION

Before any zoning amendment is approved affecting any land within three hundred (300) feet of the centerline of a proposed new highway or highway for which changes are proposed as described in the certification to local officials by the Director of Transportation, or within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Planning Commission shall give notice, by registered or certified mail to the Director of Transportation. The Planning Commission may proceed as required by law; however, the Village Council shall not approve the amendment for one hundred twenty (120) days from the date the notice is received by the Director of Transportation. If the Director of Transportation notifies the Village that he shall proceed to acquire the land needed, then the Village shall refuse to approve the rezoning. If the Director of Transportation notifies the Village 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 Transportation and the property owner, the Village Council shall proceed as required by law.

#### 606 RECOMMENDATION BY PLANNING COMMISSION

Within sixty (60) days from the receipt of the proposed amendment, the Planning Commission shall transmit its recommendation to the Village Council. The Planning Commission may recommend that the amendment be granted as requested, or it may

recommend a modification of the amendment requested, or it may recommend that the amendment be denied.

#### 607 PUBLIC HEARING BY VILLAGE COUNCIL

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

#### 608 NOTICE OF PUBLIC HEARING IN NEWSPAPER

Notice of the public hearing required in Section 607 shall be given by Village Council by at least one (1) publication in one (1) or more newspapers of general circulation in the Village. Said notice shall be published at least thirty (30) days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

#### 609 NOTICE TO PROPERTY OWNERS BY VILLAGE COUNCIL

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 made by the Clerk of Council, by first class mail at least twenty (20) days before the day of the public hearing to all owners of property within, contiguous to, and directly across from such area proposed to be rezoned or redistricted. Such notice will be mailed to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by Village Council. The failure to deliver the notification, as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in Section 608.

#### 610 ACTION BY VILLAGE COUNCIL

Within thirty (30) days after the public hearing required by Section 607, the Village Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event the Village Council denies or modifies the recommendation of the Planning Commission, it must do so by not less than three-fourths of the full membership of Village Council. No such ordinance shall be passed unless it has been fully and distinctly read on three different days except that such

ordinance may become legislation if three-fourths of the members of Village Council vote to dispense with this rule.

#### 611 EFFECTIVE DATE AND REFERENDUM

Such amendment adopted by Village Council shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the passage of the ordinance there is presented to the Village Clerk a petition, signed by a number of qualified voters residing in the Village equal to not less than ten percent (10%) of the total vote cast in such area at the last preceding general election at which a Governor was elected, requesting the Village Council to submit the zoning amendment to the electors of the Village for approval or rejection at the next general election.

No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

#### 612 ANNEXATION

All land annexed to the Village subsequent to the adoption of this ordinance shall remain subject to the previous County or Township zoning district until such time as the Official Zoning Map is amended according to the provisions of this Article. All land annexed to the Village which, prior to annexation, is not subject to County or Township zoning, shall remain unzoned until the Official Zoning Map is amended according to the provisions of this Article.

## **ARTICLE 7 PROVISIONS FOR OFFICIAL ZONING MAP**

### 700 OFFICIAL ZONING MAP

The districts established in Article 8 of this ordinance as shown on the Official Zoning Map, together with all explanatory matter thereon, are hereby adopted as part of this ordinance.

### 710 IDENTIFICATION OF THE OFFICIAL ZONING MAP

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Village Clerk and bear the seal of the Village.

### 720 INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Official Zoning Map, the following rules shall apply:

- 1) Where district boundaries are indicated as approximately following the center lines of thoroughfares or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries;
- 2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;
- 3) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map;
- 4) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line;
- 5) Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Village, unless otherwise indicated.

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## ARTICLE 8 DISTRICTS

### 800 DISTRICTS

The following districts are hereby created: Recreation and Conservation, Residence A, Residence B, Business I, Business 2, and Industrial. These districts are shown on the Zoning Map which is a part of the zoning ordinance and are of such shape and area as has been found to be best suited to carry out the intent of the ordinance.

### 810 RECREATION and CONSERVATION DISTRICT

The following uses and no others shall be permitted in the Recreation and Conservation District:

- 1) Agricultural uses;
- 2) Publicly owned and/or operated parks and/or recreation areas;
- 3) Private recreational uses other than those publicly owned and/or operated such as golf courses, country clubs, and camping areas.

#### 810.1 Accessory Uses

*Customary accessory buildings and uses shall be permitted. All accessory structures on any lot, with the exception of fences, must be located behind the front building line of the principal structure of said lot. **Specific uses/structures should be enumerated***

#### 810.2 CONDITIONAL USES – MARINAS and WATER RELATED ACTIVITIES

No building or permit shall be issued for the following uses or any customary accessory buildings or uses until and unless the location of such use shall have been applied for and approved of by the Zoning Board of Appeals:

- 1) Boat harbors
- 2) Boat marinas

#### 810.3 ACCESSORY USES – MARINAS and WATER RELATED ACTIVITIES

The following uses shall be permitted as accessory uses in connection with any boat harbor or marina and primarily intended to serve only persons using the boat harbor or marina:

- 1) Boat fueling, service, and repair
- 2) Sale of boat supplies
- 3) Grocery Store
- 4) Restaurant

- 5) Clubhouse and lockers if afloat
- 6) Public boat landing and launching facilities
- 7) Dockage facilities
- 8) Off-street parking facilities and temporary parking of boats and trailers, including spaces large enough to accommodate parked automobiles pulling a boat.

810.4 AREA and HEIGHT REGULATIONS

No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

A. LOT REQUIREMENTS

- |   |              |
|---|--------------|
| 1. Minimum Lot Area                     | One (1) acre |
| 2. <i>Minimum Lot Area, Corner Lot</i>  |              |
| 3. <i>Minimum Lot Width</i>             |              |
| 4. <i>Minimum Lot Width, Corner Lot</i> |              |

B. YARD REQUIREMENTS

- |                                       |        |
|---------------------------------------|--------|
| 1. Front (measured from right-of-way) | 50 Ft. |
| 2. Side                               | 25 Ft. |
| 3. Rear, Principal Structure          | 50 Ft. |
| 4. <i>Rear, Accessory Buildings</i>   |        |

C. MAXIMUM HEIGHT

- |                        |        |
|------------------------|--------|
| 1. Principal Structure | 25 Ft. |
|------------------------|--------|

810.5 Other Development Controls

The following controls shall apply:

- A. All "Uses Permitted and Conditional Uses" permitted in this District that require a building permit shall first receive a certificate of approval from the Clermont County Building Inspection Department. This approval will certify that the type and manner of construction shall not cause flood hazards, soil erosion, or adverse changes in the natural drainage courses or unnecessary destruction of natural features.
- B. Dwellings for permanent residence, including cabins, rooming houses, and mobile homes are not permitted in this District.

- C. Off-street parking shall be provided for any use within this District, according to the provisions of this Section and Article 11 of this ordinance.
- D. No outdoor storage of any material (useable or waste) shall be permitted in this District except within enclosed buildings as approved by the Clermont County Building Inspection Department.
- E. No motor vehicle that is inoperable, mobile home, or trailer that is useable or unusable shall be stored or used for storage of any items therein on any lot or parcel in this District.

#### 820 RESIDENCE "A" DISTRICT

The following uses and no others shall be permitted in Residence "A" District:

- 1) Single-family dwellings
- 2) Accessory uses, buildings or other structures customarily incidental to any aforesaid permitted use, including private garages and stables, where such stables are situated at least one thousand (1,000) feet distant from every lot line, provided that such accessory uses shall not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity or any billboard, sign or poster other than hereinafter authorized. The keeping or boarding of farm animals other than horses as provided above is expressly prohibited in this district.
- 3) Gardening, the raising of vegetables or fruits and the keeping of domestic animals exclusively for the use or personal enjoyment of residents of the premises and not for commercial purposes, provided that any heating plan and any stable in which horses are kept shall be located not less than one thousand (1,000) feet from every lot line.
- 4) Summer houses and living quarters of persons employed on the premises without kitchen facilities and not rented or otherwise used as a separate dwelling.
- 5) Private swimming pools, exclusively for the use of the residents and guests.
- 6) Real estate signs and small announcements or professional signs subject to the provisions of Article 12.
- 7) Temporary building for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.

- 8) Off-street parking shall be provided for any use within the District, according to the provisions of this Section and Article 11 of this ordinance.
- 9) Home Occupations.

820.1 AREA and HEIGHT REGULATIONS

A. LOT REQUIREMENTS

- 1. Minimum Lot Area 8,712 Sq. Ft.
- 2. Minimum Lot Width (at building line) 66 Ft.

~~Size of Lots. The width of any lot or parcel of land shall not be less than 66 feet at the building line. The area of any lot or parcel of land shall not be less than 8,712 square feet. (amended 7/94)~~

B. MINIMUM YARD REQUIREMENTS

- 1. Front (measured from right-of-way) 15 Ft.
- 2. Rear, Principal Structure 15 Ft.
- 3. Rear, Accessory Structure
- 4. Side 10 Ft.

*Section 820.2. Yards. There are three classifications of yards - front, rear and side.*

*(1) Front - All buildings and dwellings fronting on any street shall be set-back not less than fifteen (15) feet from the right-of-way line. (amended 4/95)*

*(2) Rear - There shall be a rear yard of fifteen (15) feet minimum in depth, for all buildings and dwellings. There shall be a minimum set-back of accessory structures or subordinate structures located in rear yards and otherwise permitted under this ordinance of ten (10) feet from adjoining property boundary lines, or ten (10) feet from the centerline of any alleyway. (amended 4/95) **Clarify this!***

*(3) Side - There shall be two side-yards, each a minimum of ten (10) feet in width. There shall be a minimum set-back of side-yard for subordinate or accessory structures otherwise permitted by this ordinance of ten (10) feet from adjoining property boundary lines or ten (10) feet from the centerline of any alleyway. **Clarify This!***

C. FLOOR AREA

- 1. Single Family Residence 1,400 Sq. Ft.

Section 820.3. Floor Areas. Minimum residential floor area for the residence shall be 1,400 square feet; minimum total floor area per family shall be 1,600 square feet. The minimum total floor area per family, per unit, may include attached enclosed garages, in addition to the residential floor area; however, no reduction in minimum residential floor area, as defined in Article 2 is permitted. Basement areas may be included in the total floor area, provided such areas are finished as residential living areas. (amended 2/93)

820.4 GRANDFATHER CLAUSE

As of the date of the adoption of Section 820.3, any existing Residential "A" structure that does not meet the requirements of Section 820.3 shall be exempt from said section if the structure is damaged or destroyed by casualty and the owner thereof elects to

rebuild or repair to the original condition. Said rebuilding or repair must be completed within ~~a reasonable time, not to exceed~~ eighteen (18) months. Failure to complete said rebuilding or repair will be construed as an abandonment of said structure and said property will be subject to Section 820.3 of this ordinance. ~~(amended 2/93)~~

#### 820.5 EXCEPTIONS

Existing lots of record not meeting all of the requirements of this Section shall nonetheless conform to set-back, side and rear yard dimensions. Variances will be granted on a case-by-case basis when such conformance is deemed to be a hardship or is physically impossible.

#### 830 RESIDENCE "B" DISTRICT

The permitted uses in Residence "B" District are as follows:

- 1) Multi-family dwellings
- 2) Single-family dwellings
- 3) Churches, schools, colleges, administrative buildings owned by the village, township, county, State or Federal Government; public buildings for recreational, cultural or service use
- 4) Non-commercial recreation areas, including country clubs, community or private swimming pools
- 5) Hospitals and sanitariums, religious and charitable institutions, not including penal or correctional institutions, provided buildings or structures are not located closer than two hundred (200) feet from Residence "A" District dwellings
- 6) Off-street parking shall be provided for any use within this District, according to the provisions of this Section and Article 11 of this ordinance
- 7) Home Occupations

#### 830.1 AREA AND HEIGHT REGULATIONS

The intent of this Section is to permit a maximum efficient development of the available land under the uses permitted in a Residence "B" Zone. Minimum lot sizes apply only when one structure is to be constructed on each tract or lot. Multiple structures shall be governed by density (number of units per acre).

##### A. LOT REQUIREMENTS, SINGLE FAMILY

1. Minimum Lot Area 8,000 Sq. Ft.

- 2. Minimum Lot Area, Corner Lot
  - 3. Minimum Lot Width 65 Ft.
  - 4. Minimum Lot Width, Corner Lot
- B. LOT REQUIREMENTS, MULTI-FAMILY
- 1. Minimum Lot Area
    - a) Two (2) Units 5,000 Sq. Ft./Unit
    - b) Three (3) Units 4,500 Sq. Ft./Unit
    - c) Four (4) Units 4,000 Sq. Ft./Unit
    - d) Five (5) or More Units 3,700 Sq. Ft./Unit
- C. MINIMUM YARD REQUIREMENTS, SINGLE FAMILY
- 1. Front (measured from right-of-way) 15 Ft.
  - 2. Rear, Principal Structure 15 Ft.
  - 3. Rear, Accessory Structure
  - 4. Side 10 Ft.
- D. MAXIMUM HEIGHT
- 1. Stories 3
  - 2. Height 45 Ft.
- E. OTHER REQUIREMENTS
- 1. Maximum Number of Dwelling Units/Structure 12
  - 2. Maximum Gross Density 12 units/Acre

~~Lot size for single structures shall be not less than sixty five (65) feet wide at the building line and not less than the following area:~~

- ~~Single Family - 8,000 square feet.~~
- ~~Multi-family - 2 units - 5,000 square feet per unit.~~
- ~~Multi-family - 3 units - 4,500 square feet per unit.~~
- ~~Multi-family - 4 units - 4,000 square feet per unit.~~
- ~~Multi-family - 5-12 units - 3,700 square feet per unit.~~
- ~~There shall be no more than 12 units in any one structure. Gross Density for more than one structure per tract or lot shall not exceed 12 units per acre. This section permits the clustering of multi-family units to afford more open space for recreation and aesthetic purposes.~~

~~Section 830.2. Yard Requirements. Same as Residence A.~~

~~Section 830.3. Height Requirements: No building shall exceed three stories or forty-five (45) feet in height.~~

### 830.2 FLOOR AREA

Minimum residential floor area for the residence shall be 800 square feet; minimum total floor area per family shall be 900 square feet. The minimum total floor area per family, per unit, may include attached enclosed garages, in addition to the residential floor area; however, no reduction in minimum residential floor area, as defined in Article 2 is permitted. Basement areas may be included in the total floor area, provided such areas are finished as residential living areas. (amended 2/93)

### 830.3 GRANDFATHER CLAUSE

As of the date of the adoption of Section 830.3, any existing residential "B" structure that does not meet the requirements of Section 830.3 shall be exempt from said section if the structure is damaged or destroyed by casualty and the owner thereof elects to rebuild or repair to the original condition. Said rebuilding or repair must be completed within a ~~reasonable time, not to exceed~~ eighteen (18) months. Failure to complete said rebuilding or repair will be construed as an abandonment of said structure and said property will be subject to Section 830.3 of this ordinance. ~~(amended 2/93)~~

### 840 LOCAL BUSINESS DISTRICT

The following uses and no other shall be permitted:

- 1) Multiple family dwellings
- 2) Rooming houses; hotels; motels; living quarters in business establishments
- 3) Restaurants; cafes, soda fountains; lunch rooms
- 4) Retail stores or shops; repair shops, beauty parlors; barbershops; mercantile establishments; banks; office or office buildings; funeral homes.
- 5) Theaters, not including outdoor
- 6) Museums; community centers
- 7) Garage, service stations
- 8) Grocery and vegetable stores, drug stores, laundry; foot locker; supermarkets; business or professional offices
- 9) Billboards; outdoor advertisement and structures in accordance with Article 12.

## 840.1 AREA AND HEIGHT REGULATIONS

### A. LOT REQUIREMENTS

- |                                       |               |
|---------------------------------------|---------------|
| 1. Minimum Lot Area, Commercial Use   | None          |
| 2. Minimum Lot Area, Residential Use  | 8,712 Sq. Ft. |
| 3. Minimum Lot Width, Commercial      | None          |
| 4. Minimum Lot Width, Residential Use | 65 Ft.        |

### B. MINIMUM YARD REQUIREMENTS

- |                                       |                 |
|---------------------------------------|-----------------|
| 1. Front (measured from right-of-way) | 25 Ft.          |
| 2. Rear                               | 40 Ft.          |
| 3. Side                               | None (see note) |

NOTE: No commercial building shall be constructed closer than forty (40) feet to any existing residence.

~~No minimum lot width shall be required in a Local Business District for commercial uses. Dwellings shall comply with the lot size requirements contained in Article 820.I. No commercial building shall be constructed closer than 40 feet to any existing residence.~~

~~Section 840.2. Yards. The classification for yards shall be as follows:~~

- ~~—(1) Front — There shall be a front yard 25 feet in depth.~~
- ~~—(2) Rear — There shall be a rear yard of 40 feet in depth.~~
- ~~—(3) Side — There shall be no side yard requirements. However, no commercial building shall be constructed closer than 40 feet to any existing residence.~~

## 850 GENERAL BUSINESS DISTRICT

The following uses and no others shall be permitted;

- 1) Job printing; newspaper printing; storage and sales; plumbing and heating supplies; meat lockers
- 2) Automobile sales; garage, public
- 3) Retail stores and shops; repair shops, funeral homes, mercantile establishments; office or office buildings; studio
- 4) Restaurants; night club; bowling alley; theater; billiard parlor; pool hall

- 5) Self-service laundry and dry cleaning shops; interior decorating and paper hanging shops
- F)
- 6) Upholstering; heating; electrical; and carpenter shops
- 7) Libraries and museums
- 8) Buildings owned by county, state or federal government
- 9) Buildings or structures of recreational, cultural or service type
- 10) Commercial and non-commercial recreation areas, including country clubs and swimming pools
- 11) Hotel; motel; and rooming houses
- 12) Light manufacturing, providing it is not a nuisance, dangerous, offensive or adversely affect the welfare and health of people of the Village
- 13) All uses permitted in Local Business District

850.1 AREA AND HEIGHT REGULATIONS

A. LOT REQUIREMENTS

- 1. Minimum Lot Area None
- 2. Minimum Lot Width None

B. MINIMUM YARD REQUIREMENTS

- 1. Front (measured from right-of-way) 25 Ft.
- 2. Rear 40 Ft.
- 3. Side None (see note)

NOTE: No commercial building shall be constructed closer than fifty (50) feet to any existing residence.

~~Yards. The classification for yards is as follows:~~

- ~~(1) Front - There shall be a front yard of not less than 25 feet in depth.~~
- ~~(2) Rear - There shall be a minimum rear yard of 40 feet in depth.~~
- ~~(3) Side - There shall be no side yard requirements. However, no commercial building shall be closing than 50 feet to an existing residence.~~

860 INDUSTRIAL DISTRICT

Uses permitted in this district shall be those which, in the opinion of the Board of Zoning Appeals, do not constitute a nuisance or are not dangerous or offensive. In determining whether an industrial use is dangerous or offensive or in establishing whether or not an industrial use may adversely affect the general welfare and health of the people of the Village, the Board of Zoning Appeals shall consider the emission of odors, dust, smoke,

noise, flame, or vibration; esthetics and the provisions of Sections 1020-1031 of this ordinance.

## 860.1 AREA AND HEIGHT REGULATIONS

### A. LOT REQUIREMENTS

- |                     |      |
|---------------------|------|
| 1. Minimum Lot Area | None |
|---------------------|------|

### B. MINIMUM YARD REQUIREMENTS

- |          |                 |
|----------|-----------------|
| 1. Front | 25 Ft.          |
| 2. Rear  | 40 Ft.          |
| 3. Side  | None (see note) |

NOTE: No commercial building shall be constructed closer than one hundred (100) feet to any existing residence.

~~Yards. The classification for yards is as follows:~~

- ~~—(1) Front: There shall be a front yard of not less than 25 feet in depth.~~
- ~~—(2) Rear: There shall be a rear yard of 40 feet in depth.~~
- ~~—(3) Side: There shall be no side yard requirements. However, no industrial building may be located within 100 feet of an adjacent residential district.~~

## 870 PLANNED UNIT DEVELOPMENTS

Objectives: It shall be the policy of the Village of Moscow, Ohio to promote progressive development of land and construction thereon by encouraging planned unit developments to achieve:

- 1) A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks, and area requirements.
- 2) A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services;
- 3) A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns;
- 4) A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets;

- 5) A development pattern in harmony with land use density, transportation facilities, and community facilities that meet the objectives of the comprehensive plan.

The Village is also prepared to accept a greater population density in undeveloped areas than that reflected by present zoning provided the developer can demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.

#### 870.1 PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENTS

Because of the special characteristics of Planned Unit Developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this article and those of the other articles of this ordinance, the provisions of this article shall prevail. Subjects not covered by this article shall be governed by the respective provisions found elsewhere in this ordinance.

#### 870.2 APPLICATION AND PROCEDURE

Upon approval by the Planning Commission and the Village Council, a Planned Unit Development **overlay** district may be applied to any existing residential district. Upon approval of a final development plan, the Official Zoning Map shall be annotated for the land area involved so that the district name includes the notation, "PUD." Planned Unit Development **overlay** districts shall be approved by the Planning Commission and the Village Council in the manner provided in Sections 870.16 through 870.30 of this Article.

#### 870.3 USES PERMITTED

Compatible residential, commercial, industrial, public, and quasi-public uses may be combined in Planned Unit Development districts provided that the proposed location of the commercial or industrial uses will not adversely affect adjacent property, and/or the public health, safety and general welfare. Lot area and other yard requirements of the residential districts established in Article 8 shall apply except as modified in Sections 870.9 and 870.11.

The amount of land devoted to commercial and/or industrial use in a residential-commercial-industrial or residential-commercial development shall be determined by the Planning Commission and approved by the Village Council.

#### 870.4 MINIMUM PROJECT AREA

The gross area of the tract to be developed under the Planned Unit Development approach shall conform to the following schedule:

<u>Type of PUD</u>	<u>Minimum area (Acres)</u>
Residential	20
Commercial	5
Industrial	30
Residential-Commercial	30
Commercial-Industrial	40
Residential-Commercial-Industrial	40

When the Planned Unit Development is a mixture of uses, no more than eight percent (8%) of the tract may be devoted to commercial activities nor more than twelve percent (12%) of tract to industrial activities.

#### 870.5 PROJECT OWNERSHIP

The project land may be owned, leased, or controlled either by a single person or corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation.

#### 870.6 COMMON OPEN SPACE

A minimum of twenty percent (20%) of the land developed in any Planned Unit Development project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. The open space shall be disposed of as required in Section 870.7 of this ordinance.

#### 870.7 DISPOSITION OF OPEN SPACE

The required amount of common open space land reserved under a Planned Unit Development shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or be dedicated to the Village, and retained as common open space for parks, recreation, and related uses. All land dedicated to the Village must meet the Planning Commission's requirements as to size, shape, and location. Public utility and similar easements and rights-of-way, or water courses and other similar channels are not acceptable for common open space dedication to the Village, unless such land or right-of-way is usable as a trail or other similar purpose and approved by the Planning Commission.

The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.

#### 870.8 UTILITY REQUIREMENTS

Underground utilities, including telephone and electrical systems, are required within the limits of all planned unit developments. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Planning Commission finds that such exemption will not violate the intent or character of the proposed Planned Unit Development.

#### 870.9 MINIMUM LOT SIZES

- 1) Lot area per dwelling unit may be reduced by not more than forty percent (40%) of the minimum lot area required in the District Regulations heretofore established in Article 8. A planned unit development need not conform to the density requirements of Article 8. A diversification of lot sizes is encouraged.
- 2) Lot widths may be varied to allow for a variety of structural designs. It is also recommended that setbacks be varied.

#### 870.10 LOTS TO ABUT UPON COMMON SPACE

Every property developed under the Planned Unit Development approach should be designed to abut upon common open space or similar areas. A clustering of dwellings is encouraged. In areas where townhouses are used, there shall be no more than eight (8) townhouse units in any contiguous group.

#### 870.11 HEIGHT REQUIREMENTS

For each foot of building height over the maximum height regulations specified elsewhere in this ordinance, the distance between such buildings and the side and rear property lines of the planned unit development project area shall be increased by one (1) foot in addition to the side and rear yard required in the districts.

#### 870.12 PARKING

Off-street parking, loading, and service areas shall be provided in accordance with Article 11 of this ordinance. However, off-street parking and loading areas shall not be permitted within fifteen (15) feet of any residential use.

#### 870.13 PERIMETER YARDS

Notwithstanding the provisions of this Article, every lot abutting the perimeter of the Planned Unit Development district shall maintain all yard requirements specified in this ordinance for the applicable conventional zoning district in which the PUD is located.

#### 870.14 ARRANGEMENT OF COMMERCIAL USES

When a Planned Unit Development includes commercial uses, commercial buildings and establishments they 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. Planting screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas.

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 non-commercial areas.

All areas designed for future expansion or not intended for immediate improvement development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Planning Commission.

#### 870.15 ARRANGEMENT OF INDUSTRIAL USES

Planned unit development districts may include industrial uses if it can be shown that the development results in a more efficient and desirable use of land.

Industrial uses and parcels shall be developed in park-like surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas or docks, and/or outdoor storage of raw materials or products. 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.

Project side yards of forty (40) feet and a rear yard of fifty (50) feet shall be required if the project is located adjacent to any residential uses. All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas, and improved areas shall be landscaped with trees and plantings and properly maintained at all times.

#### 870.16 PROCEDURE FOR APPROVAL OF PUD **OVERLAY** DISTRICT

Planned Unit Development **overlay** districts shall be approved in accordance with the procedures in Sections 870.17 through 870.18.

#### 870.17 PRE-APPLICATION MEETING

The developer shall meet with the Zoning ~~Inspector~~ Administrator and Planning Commission prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this ordinance and the criteria and standards contained herein, and to familiarize the developer with the comprehensive development plan, and major thoroughfare plan, the parks and public open space plan, the subdivision regulations, and the drainage, sewer, and water systems of the Village.

870.18            CONTENTS OF APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN

An application for preliminary Planned Unit Development shall be filed with the Chairman of the Planning Commission by at least one owner or lessee of property for which the PUD ~~planned unit development~~ is proposed. At a minimum, the application shall contain the following information filed in triplicate:

- 1) Name, address and telephone number of applicant;
- 2) Name, address, and telephone number of registered surveyor, registered engineer and/or urban planner assisting in the preparation of the preliminary development plan;
- 3) Legal description of property;
- 4) Description of existing use;
- 5) Zoning district(s);
- 6) A vicinity map at a scale approved by the Planning Commission; showing property lines, streets, existing and proposed zoning, and such other items as the Planning Commission may require to show the relationship of the planned unit development to the comprehensive plan and to existing schools and other community facilities and services;
- 7) A preliminary development plan at a scale approved by the Commission showing topography at two (2) foot intervals: location and type of residential, commercial, and industrial land uses; layout, dimensions, and names of existing and proposed streets, right-of-ways, utility easements, parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone, and natural gas; and such other characteristics as the Planning Commission deems necessary;
- 8) Proposed schedule for the development of the site;
- 9) Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within five (5) years. The application

for preliminary planned unit development shall be accompanied by a written statement by the developer setting forth the reasons why, in his opinion, the planned unit development would be in the public interest and would be consistent with the Village's statement of objectives for planned unit developments in Section 870 of this ordinance.

**870.19 PUBLIC HEARING BY PLANNING COMMISSION**

Within thirty (30) days after the receipt of the preliminary development plan, the Planning Commission shall hold a public hearing thereon.

**870.20 NOTICE OF PUBLIC HEARING BY PLANNING COMMISSION IN NEWSPAPER**

Before holding the public hearing provided in Section 870.19, notice of such hearing shall be given in one (1) or more newspapers of general circulation in the Village at least twenty (20) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and a general description of the planned unit development.

**870.21 NOTICE TO PROPERTY OWNERS BY PLANNING COMMISSION**

Before holding the public hearing required in Section 870.19, written notice of such hearing shall be sent by the Chairman of the Planning Commission by first class mail, at least twenty (20) days before the hearing, to all owners of property contiguous to or directly across from the area proposed to be included within the Planned Unit Development district. The failure to deliver the notice, as provided in this section, shall not invalidate any such proceedings. The notice shall contain the same information as required of notices published in newspapers as specified in Section 870.20.

**870.22 APPROVAL IN PRINCIPLE BY PLANNING COMMISSION**

Within thirty (30) days after the public hearing required by Section 870.19, the Planning Commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this ordinance; whether the proposed development advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the interrelationship with the land uses in the surrounding area justify the deviation from standard district regulations. The Planning Commission's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principal shall not be construed to endorse a precise location of uses, configuration of parcels, or engineering feasibility. The Planning Commission may seek assistance in

making its recommendation from the County or Regional Planning Commission or any other appropriate source.

#### 870.23 FINAL DEVELOPMENT PLAN

After approval in principle of the preliminary development plan, the developer shall submit a final development plan to the Planning Commission. The final development plan shall be in general conformance with the preliminary development plan approved in principle. Five (5) copies of the final development plan shall be submitted and may be endorsed by a qualified professional team which should include an urban planner, licensed architect, registered land surveyor, registered civil engineer, and registered landscape architect.

#### 870.24 CONTENTS OF APPLICATION FOR APPROVAL OF FINAL DEVELOPMENT PLAN

An application for approval of the final development plan shall be filed with the Chairman of the Planning Commission by at least one (1) owner or lessee of property for which the planned unit development is proposed. Each application shall be signed by the owner or lessee, attesting to the truth and exactness of all information supplied on the application for final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within five (5) years from the date of issuance of the approval. At a minimum, the application shall contain the following information:

- 1) A survey of the proposed development site, showing the dimensions and bearings of the property lines, area in acres, topography, existing features of the development site, including major wooded areas, structures, streets, easements, utility lines, and land uses.
- 2) All the information required on the preliminary development plan and in addition; the location and sizes of lots, location and proposed density of dwelling units, non-residential building intensity; and land use considered suitable for adjacent properties;
- 3) A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and street scape; tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type; estimated residential population by type of housing; estimated non-residential population; anticipated timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from standard zoning districts or other ordinances governing development;

- 4) Engineering feasibility studies and plan showing, as necessary, water, sewer, drainage, electricity, telephone, and natural gas installations; waste disposal facilities; street improvements, and nature and extend of earth work required for site preparation and development;
- 5) Site plan, showing building(s), various functional use areas, circulation, and their relationship;
- 6) Preliminary building plans, including floor plans and exterior elevations;
- 7) Landscaping plans;
- 8) Deed Restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained.

#### 870.25 PUBLIC HEARING BY PLANNING COMMISSION

Within thirty (30) days after submission of the final development plan, the Planning Commission may hold a public hearing. If a second public hearing is held, notice shall be given as specified in Sections 870.20 and 870.21.

#### 870.26 RECOMMENDATION BY PLANNING COMMISSION

Within sixty (60) days after receipt of the final development plan, the Planning Commission shall recommend to the Village Council that the final development plan be approved as presented, approved with supplementary conditions, or disapproved. The Planning Commission shall then transmit all papers constituting the record and the recommendations to the Village Council.

#### 870.27 CRITERIA FOR RECOMMENDATIONS BY PLANNING COMMISSION

Before making its recommendation as required in Section 870.26, the Planning Commission shall find that the facts submitted with the application and presented at the public hearing establish that:

- 1) The proposed development can be initiated within five (5) years of the date of approval;
- 2) Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objection will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under standard district regulations;

- 3) The streets and thoroughfares are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the planned unit development;
- 4) Any proposed commercial development can be justified at the locations proposed;
- 5) Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accord with the planned unit development and the adopted policy of the Planning Commission and the Village Council;
- 6) The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;
- 7) The planned unit development is in general conformance with the comprehensive plan of the Village;
- 8) The existing and proposed utility services are adequate for the population densities and non-residential uses proposed. The Planning Commission may seek assistance in making its recommendation from the County or Regional Planning Commission or any other appropriate source.

#### 870.28 ACTION BY VILLAGE COUNCIL

Within sixty (60) days after receipt of the final recommendation of the Planning Commission, the Village Council shall ~~be~~ by ordinance either approve, approve with supplementary conditions, or disapprove the application as presented. If the application is either approved or approved with conditions, the Village Council shall direct the Zoning Inspector to issue zoning permits only in accordance with the approved final development plan and the supplementary conditions attached thereto.

#### 870.29 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

In approving any Planned Unit Development **overlay** district, the Village Council may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such safeguards, when made a part of the terms under which the final development plan is approved, shall be deemed a violation of this ordinance and punishable under Section 350 of this ordinance.

#### 870.30 EXPIRATION AND EXTENSION OF APPROVAL PERIOD

The approval of a final development plan for a planned unit development district shall be for a period not to exceed five (5) years to allow for preparation and recording of the required subdivision plan and the development of the project. If no construction has begun within five (5) years after approval is granted, the approved final development

plan shall be void and the land shall revert to the district regulations in which it is located. An extension of the time limit or modification of the approved final development plan may be approved if the Planning Commission finds that such extension or modification is not in conflict with the public interest.

No zoning amendment passed during the time period granted for the approved final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

## **ARTICLE 9 DISTRICT REGULATIONS**

### 900 COMPLIANCE WITH REGULATIONS

The regulations for each district set forth by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided;

- 1) No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located;
- 2) No building or other structure shall be erected or altered:
  - a. to provide for greater height or bulk;
  - b. to accommodate or house a greater number of families;
  - c. to occupy a greater percentage of lot area;
  - d. to have narrower or smaller rear yards, front yards, side yards, or other open spaces as required herein, or in any other manner be contrary to the provisions of this ordinance.
- 3) No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements set forth herein.

### 910 OFFICIAL SCHEDULE OF DISTRICT REGULATIONS ADOPTED

District regulations shall be as set forth in the Article 8 hereof and as adopted and declared to be a part of this ordinance and as set forth in Article 10, "*Supplementary District Regulations,*" of this ordinance.

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## **ARTICLE 10 SUPPLEMENTAL DISTRICT REGULATIONS**

### 1000 GENERAL

The purpose of supplemental district regulations is to set specific conditions for various uses, classification of uses, or areas where problems are frequently encountered.

### 1001 CONVERSION OF DWELLINGS TO MORE UNITS

A residence may not be converted to accommodate an increased number of dwelling units unless:

- 1) The yard dimensions still meet the yard dimensions required by the zoning regulations or new structures in that district;
- 2) The lot area per family equals the lot area requirements for new structures in that district;
- 3) The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district;
- 4) The conversion is in compliance with all other relevant codes and ordinances.

### 1002 PRIVATE SWIMMING POOLS

No private swimming pool, exclusive of portable swimming pools with a diameter less than twelve (12) feet or with an area of less than one hundred (100) square feet shall be allowed in any commercial or residential district, except as an accessory use and unless it complies with the following conditions and requirements:

- 1) The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located;
- 2) It may not be located closer than ten (10) feet to any property line;
- 3) The swimming pool shall be fenced to prevent uncontrolled access by children from the street or from adjacent properties. Said fence shall not be less than four (4) feet in height, shall be secure and maintained in good condition. If the swimming pool is an above ground pool, it shall be subject to the same conditions above, except that fencing may be added to the pool itself, so that the fencing is a minimum of two (2) feet in height and the total height of the

pool and fencing shall be a minimum of four (4) feet in height, said fencing shall be secure and maintained in good condition. (~~amended 7/94~~)

4)

#### 1004 TEMPORARY BUILDINGS

Temporary buildings, construction trailers, equipment and materials used in conjunction with construction work are only permitted in any district during the period construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work. Storage of such facilities or equipment beyond the completion date of the project shall require a zoning permit authorized by the Zoning Inspector Administrator.

#### 1005 PARKING AND STORAGE OF CERTAIN VEHICLES

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. However, one boat and one travel trailer may be stored in the rear yard if they have a current license.

#### 1006 REQUIRED TRASH AREAS

All commercial, industrial, and multi-family residential uses shall provide trash and/or garbage collection areas; such areas shall be enclosed and the enclosure at least four (4) feet in height if such area is not within an enclosed building or structure. Provisions for adequate vehicular access to and from such areas for collection of trash and/or garbage as determined by the Zoning Inspector Administrator shall be required.

#### 1010 SUPPLEMENTAL YARD AND HEIGHT REGULATIONS

In addition to all yard regulations specified in the Article 8 and in other sections of this ordinance, the *following* provisions of ~~Sections 1011–1017, inclusive,~~ shall be used for interpretation and clarification.

1) Setback Requirements for Corner Buildings

On a corner lot the principal building and its accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located.

2) Visibility at Intersections

On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of one and a half (1 ½) and ten (10) feet above the center line grades

of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along said street lines fifteen (15) feet from the point of intersection

3) Fence and Wall Restrictions

- a. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of two and a half (2 ½) feet, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the height of two and a half (2 ½) feet and ten (10) feet.
- b. Fences, no higher than 6 feet, maybe erected on side and rear yards and are exempted from the set back requirements. Line fences, being a fence erected on the property line of the lot, shall be permitted only with the owners of the adjacent parcels file with the Zoning Inspector Administrator their mutual acceptance of the location of the fence; or the owner of the lot files with the zoning inspector a survey by a licensed surveyor that the fence is located on the lot lines.

4) Yard Requirements for Multi-Family Dwellings

Multi-family dwellings shall be considered as one (1) building for the purpose of determining front, side and rear yard requirements. The entire group as a unit shall require one (1) front, one (1) rear, and two (2) side yards as specified for dwellings in the appropriate district. Each individual building shall meet all yard requirements for the appropriate district as though it were on an individual lot.

5) Architectural Projections

Open structures such as porches, canopies, balconies, platforms, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into the required minimum front, side or rear yard.

6) Exceptions to Height Regulations

The height limitations contained in Article 8 do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and takeoff of aircraft at an established airport.

~~Section 1011. Setback Requirements for Corner Buildings.~~

~~Section 1012. Visibility at Intersections. . (amended 7/94)~~

~~Section 1013. Fence and Wall Restrictions. (amended 4/95)~~

~~Section 1014. Yard Requirements for Multi-Family Dwellings.~~

~~Section 1015. Architectural Projections.~~

~~Section 1016. Exceptions to Height Regulations.~~

*1020 SPECIAL PROVISIONS FOR COMMERCIAL AND INDUSTRIAL USES*

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions which could

adversely affect the surrounding areas or adjoining premises, except that any use permitted by this ordinance may be undertaken and maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits as established by the performance requirements *listed in this section in Sections 1021 through 1031, inclusive.*

1) Fire Hazards

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire-prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

2) Radioactivity or Electrical Disturbance

No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance.

3) Noise

Objectionable noise as determined by the Zoning Inspector which is due to volume, frequency, or beat shall be muffled or otherwise controlled. Air-raid sirens and related apparatus used solely for public purposes are exempt from this requirement.

4) Vibration

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

5) Air Pollution

Air pollution shall be subject to the requirements and regulations established by the Director of the Ohio Environmental Protection Agency.

6) Glare

No direct or reflected glare shall be permitted which is visible from any property outside a manufacturing district or from any street.

7) Erosion

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

8) Water Pollution

Water pollution shall be subject to the requirements and regulations established by the Director of the Ohio Environmental Protection Agency.

9) Enforcement Provisions

The Zoning Inspector Administrator, prior to the issuance of a zoning permit, may require the submission of statements and plans indicating the manner in which dangerous and/or objectionable elements involved in processing or in equipment operations are to be eliminated or reduced to acceptable limits and tolerances.

10) Measurement Procedures

Methods and procedures for the determination of the existence of any dangerous and objectionable elements shall conform to applicable standard measurement procedures published by the American Standards Association, Inc., New York; the Manufacturing Chemists' Association, Inc., Washington, D.C.; the United States Bureau of Mines; and the Ohio Environmental Protection Agency.

~~Section 1021. Fire Hazards. —~~  
~~Section 1022. Radioactivity or Electrical Disturbance. —~~  
~~Section 1023. Noise. —~~  
~~Section 1024. Vibration. —~~  
~~Section 1025. Air Pollution. —~~  
~~Section 1026. Glare. —~~  
~~Section 1027. Erosion. —~~  
~~Section 1028. Water Pollution. —~~  
~~Section 1030. Enforcement Provisions. —~~  
~~Section 1031. Measurement Procedures. —~~

#### 1032 UNSIGHTLY OR UNSANITARY STORAGE

No rubbish, salvage materials, junk or miscellaneous refuse shall be openly stored or kept in the open within any zones when the same may be construed to be a menace to public health and safety by the appropriate Health Department or to have, in the opinion of the Zoning Inspector Administrator, a depressing influence upon property values in the neighborhood.

#### 1034 LOT FRONTAGE AND AREA

All lots shall front on a public street. The area of each lot shall be as required in the district in which the lot may be located.

#### 1035 FILLING STATIONS, PARKING LOTS, *PARKING GARAGES*

Entrances and exits to gasoline filling stations, public garages and parking lots shall not be located closer than 200 feet to any school, public playground, church, hospital, public library, or institution for children. On corner lots, entrances and exits shall not be closer to the corner than 50 feet. Curb openings shall not exceed 40 feet at the curb line. (*Add access control for curb cuts*)

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## **ARTICLE 11 OFF-STREET PARKING AND LOADING FACILITIES**

### **1100 GENERAL REQUIREMENTS**

No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this ordinance.

The provisions of this Article, except where there is a change of use, shall not apply to any existing building or structure. Where the new use involves no additions or enlargements, there shall be provided as many of such spaces as may be required by this ordinance.

Whenever a building or structure constructed after the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change. Whenever a building or structure existing prior to the effective date of this ordinance is enlarged by fifty percent (50%) or more in floor area, number of employees, number of housing units, seating capacity or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth herein.

### **1110 PARKING SPACE DIMENSIONS**

A parking space shall have minimum rectangular dimensions of not less than nine (9) feet in width and nineteen (19) feet in length for ninety (90) degree parking; nine (9) feet in width and twenty-three (23) feet in length for parallel parking; ten (10) feet in width and nineteen (19) feet in length for sixty (60) degree parking; and twelve (12) feet in width and nineteen (19) feet in length for forty-five (45) degree parking. All dimensions shall be exclusive of driveways, aisles, and other circulation areas. The number of required off-street parking spaces is established in Section 1130 of this ordinance.

### **1111 LOADING SPACE REQUIREMENTS AND DIMENSIONS**

A loading space shall have minimum dimensions of not less than twelve (12) feet in width, fifty (50) feet in length, exclusive of driveways, aisles, and other circulation areas, and a height of clearance of not less than fifteen (15) feet. One off-street loading space shall be provided and maintained on the same lot for every separate occupancy requiring delivery of goods and having a modified gross floor area of up to five thousand (5,000) square feet. One loading space shall be provided for each additional ten thousand (10,000) square feet or fraction thereof.

#### 1112 PAVING

The required number of parking and loading spaces as set forth in Section 1111 and 1130, together with driveways, aisles, and other circulation areas, shall be improved with such material as to provide a durable and dust-free surface.

#### 1113 DRAINAGE

All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways.

#### 1114 MAINTENANCE

The owner of property used for parking and/or loading shall maintain such area in good condition without holes and free of all dust, trash, and other debris.

#### 1115 LIGHTING

Any parking area which is intended to be used during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to reflect the light away from the adjoining property.

#### 1116 LOCATION OF PARKING SPACES

The following regulations shall govern the location of off-street parking spaces and areas:

- 1) Parking spaces for all detached residential uses shall be located on the same lot as the use which they are intended to serve;
- 2) Parking spaces for commercial, industrial or institutional uses shall be located not more than seven hundred (700) feet from the principal use;
- 3) Parking spaces for apartments, dormitories, or similar residential uses shall be located not more than three hundred (300) feet from the principal use.

#### 1117 SCREENING AND/OR LANDSCAPING

Whenever a parking area is located in or adjacent to a residential district it shall be effectively screened on all sides which adjoin or face any property used for residential

purposes, by an acceptably designed wall, fence, or planting screen. Such fence, wall, or planting screen shall be not less than four (4) feet nor more than six (6) feet in height and shall be maintained in good condition. The space between such fence, wall, or planting screen, and the lot line of the adjoining premises in any residential district shall be landscaped with grass, hardy shrubs or evergreen ground cover, and maintained in good condition. In the event that terrain or other natural features are such that the erection of such fence, wall, or planting screen will not serve the intended purpose, then no such fence, wall, or planting screen or landscaping shall be required.

#### 1118 DISABLED VEHICLES

The parking of a disabled vehicle within a residential or commercial district for a period of more than two (2) weeks shall be prohibited, unless such vehicle is stored in an enclosed garage or other accessory building.

#### 1119 MINIMUM DISTANCE AND SETBACKS

No part of any parking area for more than ten (10) vehicles shall be closer than twenty (20) feet to any dwelling unit, school, hospital or other institution for human care located on an adjoining lot, unless separated by an acceptably designed screen. If on the same lot with a one-family residence, the parking area shall not be located within the front yard required for such building. In no case shall any part of a parking area be closer than four (4) feet to any established street or alley right-of-way.

#### 1120 JOINT USE

Two or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap provided that a written agreement approved by the Zoning Inspector shall be filed with the application for a zoning permit.

#### 1121 WHEEL BLOCKS

Whenever a parking lot extends to a property line, wheel blocks or other suitable devices shall be installed to prevent any part of a parked vehicle from extending beyond the property line.

#### 1122 WIDTH OF DRIVEWAY AISLE

Driveways serving individual parking spaces shall be not less than twenty-five (25) wide for ninety (90) degree parking; twelve feet (12) feet wide for parallel parking; seventeen and one-half (17 ½) feet for sixty (60) degree parking; and thirteen (13) feet for forty-five (45) degree parking.

1123 ACCESS

Any parking area shall be designed in such a manner that any vehicle leaving or entering the parking area from or into a public or private street shall be traveling in a forward motion. Access driveways for parking areas or loading spaces shall be located in such a way that any vehicle entering or leaving such area shall be clearly visible for a reasonable distance to any pedestrian or motorist approaching the access or driveway from a public or private street.

1124 WIDTH OF ACCESS DRIVEWAY

The entrances and exits to the parking area shall be clearly marked. Interior vehicular circulation by way of access roads shall maintain the following minimum standards; for one way traffic the minimum width of fourteen (14) feet except for forty-five (45) degree parking in which case the minimum width of the access road shall be seventeen (17) feet; for two way traffic the minimum width of twenty-four (24) feet. Parking areas having more than one aisle or driveway shall have directional signs or markings in each aisle or driveway.

1125 STRIPING

All parking areas with a capacity over twelve (12) vehicles shall be striped with double lines (six (6) inches both sides of center) between stalls to facilitate the movement into and out of the parking stalls.

1130 PARKING SPACE REQUIREMENTS

For the purpose of this ordinance the following parking space requirements shall apply:

<u>TYPE OF USE</u>	<u>PARKING SPACES REQUIRED</u>
<b>A. RESIDENTIAL</b>	
1) Single family or two family	Two for each dwelling unit
2) Apartments or multi-family	Two for each dwelling unit
3) Boarding house, rooming house, or dormitories that have sleeping rooms	One for each sleeping room or one for each permanent occupant
<b>B. COMMERCIAL</b>	
1) Automobile service garages which provide repair	Two for each fuel pump and two for each service bay
2) Hotels, motels	One for each sleeping room plus one for each two employees
3) Funeral parlors, mortuaries and	One per 100 sq. ft. of floor area in

similar type uses

slumber rooms, parlors, or service rooms

### C. RECREATIONAL OR ENTERTAINMENT

- 1) Dining rooms, restaurants, taverns, night clubs, and similar uses      One per 200 sq. ft. of floor area
- 2) Bowling alleys      Four per alley or lane plus one for each 100 sq. ft. of floor area used for restaurant, cocktail lounge, or similar
- 3) Dance floors, skating rinks      One for each 100 sq. ft. of floor area used for the activity
- 4) Outdoor public or community pools or club      One per five persons of capacity swimming plus one per four seats or one per 30 sq. ft. of floor area used for seating purposes, whichever is greater
- 5) Auditoriums, sports arenas, theaters, and similar uses      One for each 4 seats
- 6) Retail stores      One for each 250 sq. ft. of floor area
- 7) Banks, financial institutions and similar uses      One for each 200 sq. ft. of floor area
- 8) Offices, public or professional administration, or service buildings      One for each 400 sq. ft. of floor area
- 9) All other types of business or commercial uses permitted in any business district      One for each 300 sq. ft. of floor area

### D. INSTITUTIONAL

- 1) Churches and other places of religious assembly      One for each 5 seats
- 2) Hospitals      One for each bed
- 3) Sanitariums, homes for the aged, nursing homes, children homes, asylums, and similar uses      One for each 2 beds
- 4) Medical and dental clinics      One for every 200 sq. ft. of floor area of examination, treating room office, and waiting room
- 5) Libraries, museums, and art galleries      One for each 400 sq. ft. floor area

E. SCHOOLS (PUBLIC, PAROCHIAL, OR PRIVATE)

- 1) Elementary and junior high schools Two for each classroom and one for every eight seats in auditoriums or assembly halls
- 2) High schools One for every ten students and one for each teacher and employee
- 3) Business, technical and trade schools One for each two students
- 4) Colleges and universities One for each four students
- 5) Kindergarten, child care centers, nursery schools, and similar uses Two for each classroom, min. six per building

F. MANUFACTURING

- 1) All types of manufacturing, storage, and wholesale uses permitted in any manufacturing district One for every 2 employees (on the largest shift for which the building is designed plus one for each motor vehicle used in the business
- 2) Cartage, express, parcel delivery, and freight terminals One for every 2 employees (on the largest shift for which the building is designed plus one for each motor vehicle used in the business

~~Section 1130.1. Residential.~~

~~Section 1130.3. Recreational or Entertainment.~~

~~Section 1130.4. Institutional.~~

~~Section 1130.5. Schools (Public, Parochial, or Private).~~

~~Section 1130.6. Manufacturing.~~

1140 GENERAL INTERPRETATIONS

In the interpretation of this Article, the following rules shall govern:

- 1) Parking spaces for other permitted or conditional uses not listed in this Article shall be determined by the Board upon an appeal from a decision of the Zoning Inspector Administrator;
- 2) Fractional numbers shall be increased to the next whole number;
- 3) Where there is an adequate public transit system or where for any other reason parking demand is unusually low, then the parking space provisions cited above may be reduced proportionately by the Board on an appeal from a decision of the Zoning Inspector Administrator.

## **ARTICLE 12 SIGNS**

### **1200 INTENT**

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

### **1201 GOVERNMENTAL SIGNS EXCLUDED**

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

### **1202 GENERAL REQUIREMENTS FOR ALL SIGNS AND DISTRICTS**

The regulations contained in this section shall apply to all signs and all use districts.

- 1) Any illuminated sign or lighting device shall employ only light emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public thoroughfare, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- 2) No sign shall employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention. Subsections (1) and (2) of this section shall not apply to any sign performing a public service function indicating time, temperature, stock market quotations or similar services;
- 3) All wiring, fittings, and materials used in the construction, connection, and operation of electrically illuminated signs shall be in accordance with the provisions of the legal electric code in effect, if any;

- 4) No projecting sign shall be erected or maintained from the front or face of a building a distance of more than two (2) feet, including those projecting from the face of any theater, hotel, or motel marquee;
- 5) No sign shall be placed on the roof of any building, except those signs whose supporting structure is screened so the sign appears to be a continuation of the face of the building.
- 6) No portable or temporary sign shall be placed on the front or face of a building or on any premises, except as provided in Section 1220 herein;
- l) No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving devices. Such devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign;
- 8) No sign erected or maintained in the window of a building, visible from any public or private street or highway, shall occupy more than twenty percent (20%) of the window surface;
- 9) No sign of any classification shall be installed, erected, or attached in any form, shape, or manner to a fire escape or any door or window giving access to any fire escape;
- 10) All signs hung and/or erected shall be plainly marked with the name of the person, firm, or corporation responsible for maintaining the sign;
- 11) Should any sign be or become unsafe or be in danger of falling, the owner *thereof* or the person maintaining the sign *same*, shall upon receipt of written notice from the Zoning Inspector proceed at once to put such sign in a safe and secure condition or remove the sign;
- 12) No sign shall be placed in any public right-of-way except publicly-owned signs, such as traffic control signs and directional signs. Signs directing and guiding traffic and parking on private property but bearing no advertising matter shall be permitted on any property;

### 1203 MEASUREMENT OF SIGN AREAS

The surface of a sign shall be computed as including the entire area within a regular, geometric form or combinations of regular, geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not being advertising matter shall not be included in computation of surface area.

### 1210 SIGNS PERMITTED IN ALL DISTRICTS NOT REQUIRING A PERMIT

Signs advertising the sale, lease, or rental of the premises upon which the sign is located, shall not exceed twelve (12) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet.

1211 SIGNS PERMITTED IN ANY DISTRICT REQUIRING A PERMIT

- 1) Signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs or societies which signs or bulletin boards shall not exceed fifteen (15) square feet in area and which shall be located on the premises of such institution;
- 2) Any sign advertising a commercial enterprise, including estate developers or subdivider, in a district zoned residential shall not exceed twelve (12) square feet in area and shall advertise only the names of the owners, trade names, products sold and/or the business or activity conducted on the premises where such sign is located.

1212 SIGNS PERMITTED IN COMMERCIAL AND MANUFACTURING DISTRICTS

The regulations set forth in this section shall apply to signs in all commercial and manufacturing districts and such signs shall require a permit.

- 1) In a commercial or manufacturing district, each business shall be permitted one flat or wall on-premises sign. Projection of wall signs shall not exceed two feet measured from the face of the main building. The area of all permanent on-premises signs for any single business enterprise may have an area equivalent to one and one-half (1 ½) square feet of sign area for each lineal foot of building width, or part of a building, occupied by such enterprise but shall not exceed a maximum area of one hundred (100) square feet;
- 2) In a commercial or manufacturing district, two off-premises signs with a total area not exceeding six hundred (600) square feet may be permitted at a single location. No single off-premises sign shall exceed one thousand two hundred (1,200) square feet. All off-premises signs visible to approaching traffic must have a minimum spacing of at least two hundred (200) feet between each sign. Off-premises signs shall conform to all applicable yard and height regulations for the appropriate zoning district, except that such signs intended to be viewed from an elevated highway shall be not more than twenty (20) feet above the level of the roadway at its nearest point. Off-premises wall signs shall have all structural and supporting members concealed from view.

1220 TEMPORARY SIGNS

Temporary signs not exceeding fifty (50) square feet in area, announcing special public or institutional events, the erection of a building, the architect, the builders, or contractors may be erected for a period of sixty (60) days plus the construction period. Such temporary signs shall conform to the general requirements listed in Section 1202, the setback requirements in Sections 1240 through 1243 and, in addition, such other standards deemed necessary to accomplish the intent of this Article as stated in Section 1200. A permit is required for such signs.

#### 1221 FREE STANDING SIGNS

Free-standing on-premises signs not over thirty (30) feet in height, having a maximum total sign area of one hundred (100) square feet per display area and located not closer than ten (10) feet to any street right-of-way line and not closing than thirty (30) feet to any adjoining lot line may be erected to serve a group of business establishments. There shall be only one free-standing sign for each building, regardless of the number of business conducted in said building. A permit is required for such signs.

#### 1222 WALL SIGNS PERTAINING TO NON-CONFORMING USES

On-premises wall signs pertaining to a non-conforming use shall be permitted on the same premises of such use, provided the area of such sign does not exceed twelve (12) square feet. A permit is required for such signs.

#### 1230 POLITICAL SIGNS

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

#### 1240 SIGN SETBACK REQUIREMENTS

Except as modified in Sections 1241 through 1244, on-premises signs where permitted shall be set back from the established right-of-way line of any thoroughfare at least fifteen (15) feet. No off-premises sign shall be erected in front of the required setback line for the appropriate district.

#### 1241 INCREASED SETBACK

For every square foot by which any on-premises sign exceeds fifty (50) square feet, the setback shall be increased by one-half (1/2) foot but need not exceed one hundred (100) feet.

#### 1242 SETBACKS FOR OFF-PREMISES SIGNS

If a setback line is not established for the appropriate zoning district, off-premises signs shall be set back a minimum of twenty (20) feet from the right-of-way line.

#### 1243 SETBACKS FOR PUBLIC AND QUASI-PUBLIC SIGNS

Real estate signs and bulletin boards for a church, school or any other public, religious or educational institution may be erected not less than ten (10) feet from the established right-of-way line of any street or highway provided such sign or bulletin board does not obstruct traffic visibility at street or highway intersections.

#### 1244 SPECIAL YARD PROVISIONS

On-premises signs where permitted shall be erected on placed in conformity with the side and rear yard requirements of the district in which located, except that in any residential district, on-premises signs shall not be erected or placed within twelve (12) feet of a side or rear lot line. If the requirement for a single yard in the appropriate zoning district is more than twelve (12) feet, the latter shall apply.

#### 1250 LIMITATION

For the purposes of this resolution, outdoor advertising off-premises signs shall be classified as a business use and be permitted in all districts zoned for manufacturing or business or lands used for agricultural purposes. In addition, regulation of signs along interstate and primary highways shall conform to the requirements of Ohio Revised Code Chapter 5516 (as amended) and the regulations adopted pursuant thereto.

#### 1260 VIOLATIONS

In case any sign shall be installed, erected, constructed or maintained in violation of any of the terms of this ordinance, the Zoning ~~Inspector~~ Administrator shall notify in writing the owner or lessee thereof to alter such sign so as to comply with this ordinance. Failure to comply with any of the provisions of this Article shall be deemed a violation and shall be punishable under Section 350 of this ordinance. Political signs posted in violation of Section 1230 of this ordinance are subject to removal by the Zoning ~~Inspector~~ Administrator five (5) days after written notice of violation of Section 1230 has been given to the person or committee erecting such sign.

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### **ARTICLE 13 FLOOD PLAIN DEVELOPMENT**

#### 1300 Flood Plain Control Ordinance

All development must comply with the provisions of the "Flood Damage Prevention Ordinance Number 5-77." If construction occurs in the designated flood plain, a zoning permit cannot be issued until and unless the Clermont County Building Inspection Department has authorized the construction as being flood protected in accordance with the Village of Moscow Flood Damage Prevention Ordinance.