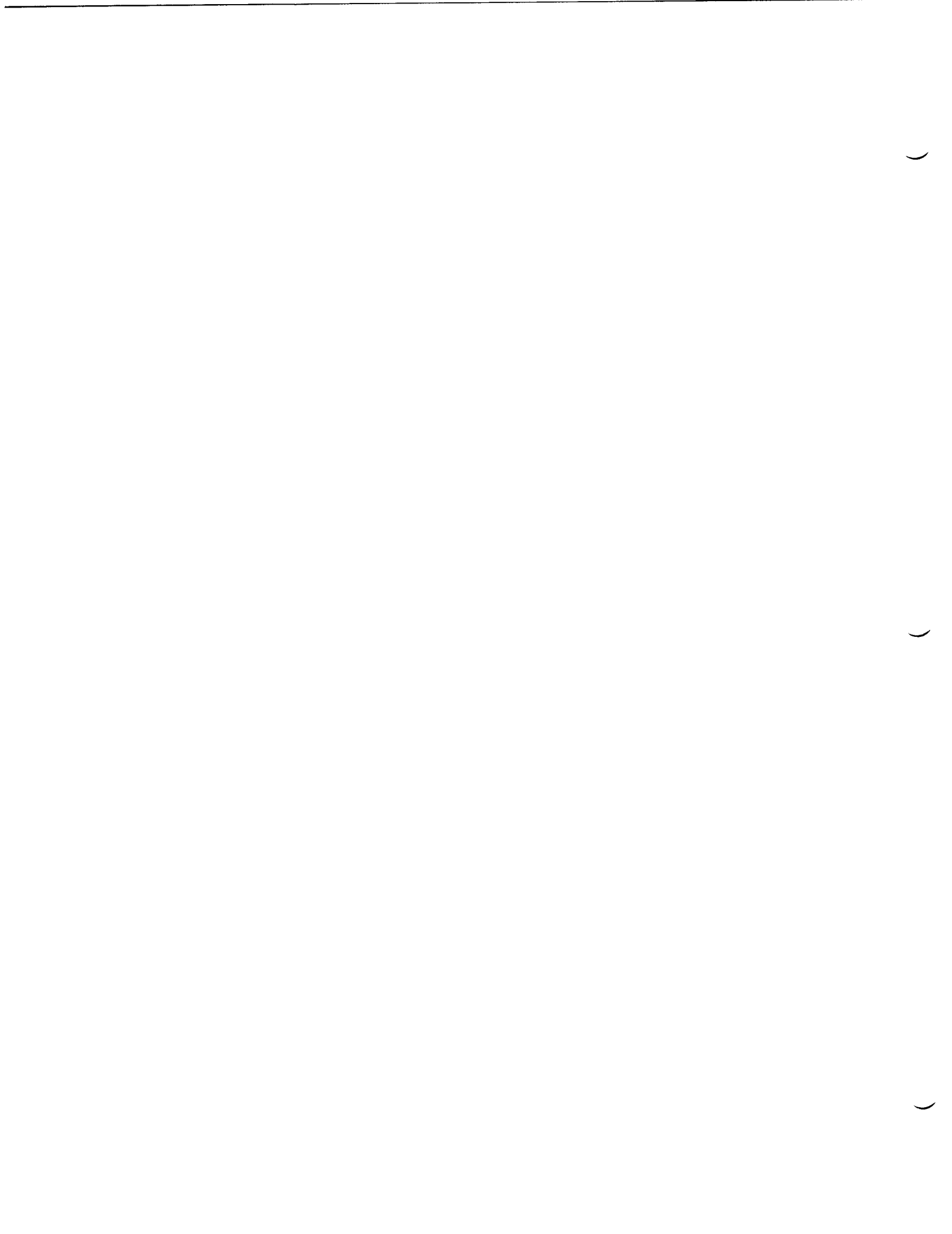


# ZONING ORDINANCE

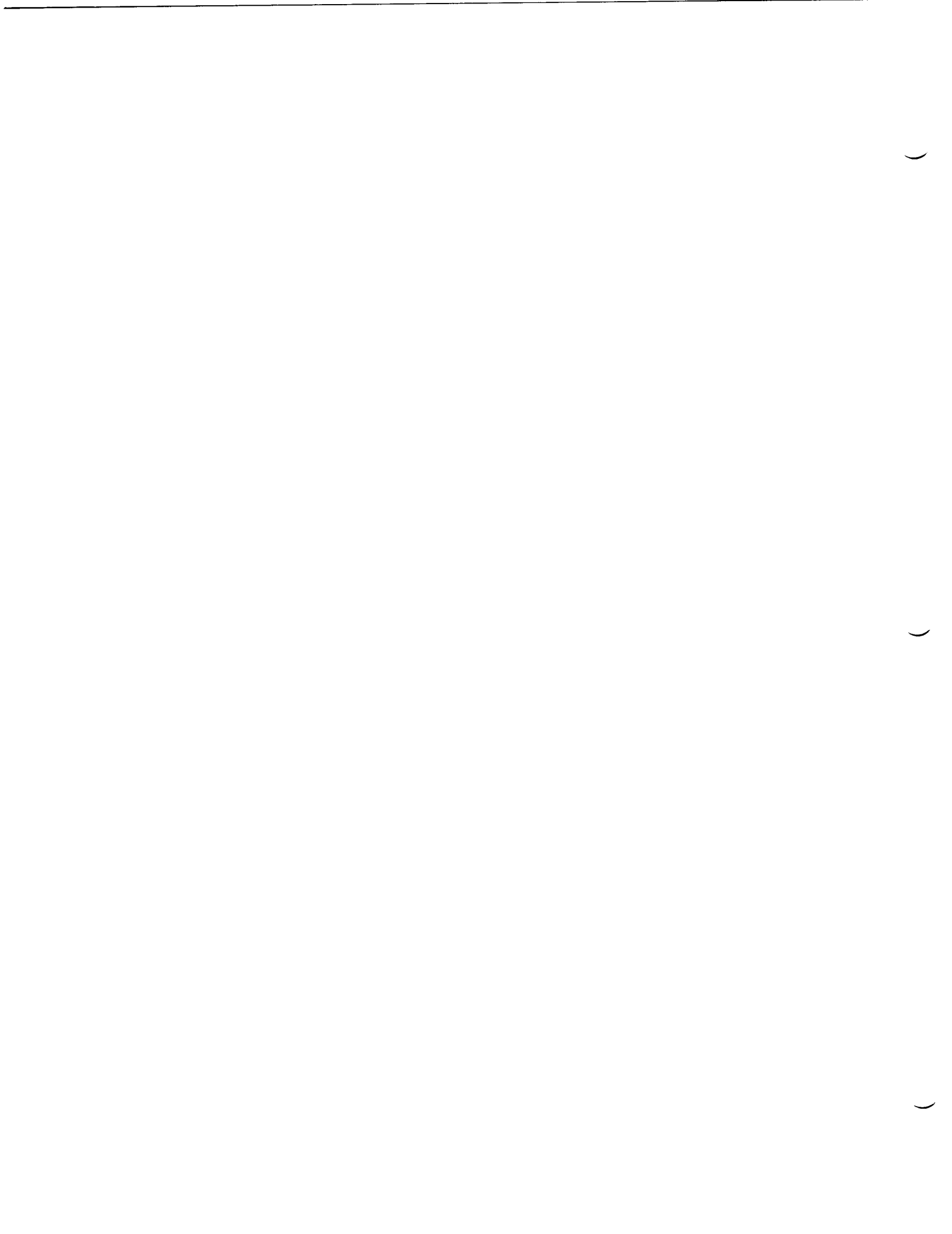
VILLAGE OF BYESVILLE  
GUERNSEY COUNTY, OHIO

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**PART ONE**  
**AUTHORIZATION AND GENERAL PROVISIONS**



## ARTICLE I

### GENERAL PROVISIONS

#### Section 1.01 Title

This Ordinance shall be known and may be cited as the “**Zoning Ordinance of the Village of Byesville, Ohio.**” Unless otherwise provided herein or by the law or implication required, the same rules of construction, definition, and application shall govern the interpretation of the Ordinance as those governing the interpretation of the Ohio Revised Code.

#### Section 1.02 Purpose

This Zoning Ordinance is adopted to promote, protect and preserve the public health, safety, comfort, prosperity and general welfare of the citizens of the Village of Byesville, by:

- regulating and limiting the use of land areas and buildings, and the erection, restoration and alteration of buildings and use thereof for residential, business and industrial purposes,
- regulating the area dimensions of land, yards and open spaces so as to secure adequate light, air and safety from fire and other dangers.
- protecting the character and value of the existing agricultural, residential, business, industrial, and institutional areas,
- providing for the orderly growth and development of land within the Village, and
- providing for the division of the municipality into various districts as authorized by Chapter 713 of the Ohio Revised Code.

#### Section 1.03 Applicability and Interpretation

##### 1.03.01 Applicability

The regulations set forth in this Zoning Ordinance shall be applicable to all buildings, structures, uses and lands owned or controlled by any person(s), organization, political subdivision, district, taxing unit or bond-issuing authority located within the corporate limits of the Village of Byesville.

##### 1.03.02 Interpretation and Conflict

The provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of public health, safety, and the general welfare. It is not intended that this Ordinance shall interfere with, abrogate, or annul any easements, covenants, or other agreements between parties unless they violate this Ordinance. When any provision of this Ordinance conflicts with any other

lawfully adopted rule, regulation, ordinance, or resolution, the most restrictive, or that imposing the higher standards, shall apply.

1.03.03 Provisions Cumulative

The provisions hereof are cumulative and additional limitations on all other laws and ordinances heretofore passed or which may be hereafter passed governing any subject matter of this Ordinance. Nothing herein shall be deemed or constructed to repeal, amend, modify, alter or change any other ordinance or any part hereof not specifically repealed, amended, modified, altered or changed herein, except in such particulars or matters as the Zoning Ordinance is more restrictive than such other ordinances or parts thereof and that in all particulars wherein the Zoning Ordinance is not more restrictive, each such other ordinance shall continue and shall be in full force and effect.

**Section 1.04 Separability**

The invalidation of any clause, sentence, paragraph, or section of this Ordinance by a court of competent jurisdiction shall not affect the validity of the remainder of this Ordinance either in whole or in part.

## **ARTICLE II**

### **DEFINITIONS**

#### **Section 2.01 Interpretation**

For the purpose of this Zoning Ordinance, certain terms and words are to be defined as found in this Article. Words and terms not specifically defined carry their customarily understood meanings. Words used in the present tense include the future tense. The singular form shall include plural and plural shall include singular. The word "shall" is intended to be mandatory. Terms related to specific Articles or Sections of the Ordinance may be defined within the specific sections where those general requirements are found.

#### **Section 2.02 Definitions**

"Accessory use" means a use subordinate, secondary, incidental to, and customary in connection with the principal building or use and located on the same lot as the principal building or use.

"Accessory building" or "accessory structure" means a building or structure occupied by an accessory use.

"Administrative and business offices" means offices which carry on no retail trade with the public and maintain no stock of goods for sale to customers.

"Alley" means a public right-of-way which provides only secondary means of access to abutting property.

"Apartment" (see "Multiple family dwelling")

"Basement" means a story whose floor level, two (2) feet or more below grade level, but having less than half its clear height above grade level.

"Bed and breakfast establishment" means a single family dwelling, or portion thereof, where short term lodging rooms and some meals are provided, and in which the owner of the dwelling lives on the premises.

"Buffer" means a landscaped area intended to separate and/or partially obscure the view of two (2) adjacent land uses or properties from each other.

"Building" means a structure permanently affixed to the land with one (1) or more floors and a roof supported by columns or walls, used or intended to be used for shelter or enclosure of persons, animals and/or property.

"Height of building" means the vertical distance from the average grade surrounding the building to the highest point of the roof.

"Building line" means the front yard setback line established by this Zoning Ordinance generally parallel with and measured perpendicularly from the front lot

line, defining the limits of a front yard in which no building or structure may be located as provided by this Zoning Ordinance.

“Business services” means any profit-making activity which renders services primarily to other commercial, institutional, or industrial enterprises, or which services and repairs appliances and machines used in other businesses.

“Cemetery” means land used or intended to be used for the burial of human dead.

“Certificate of Zoning Compliance” means a certificate issued by the Zoning Inspector, pursuant to Section 4.08 of this Ordinance, confirming that the requirements of this Ordinance have been met, and the building can be occupied and/or used.

“Clinic, Human” means an establishment where patients who are not lodged overnight are admitted for examination and/or treatment by a physician or group of physicians.

“Commission” means the Planning and Zoning Commission of the Village of Byesville Ohio, as established in Article III of this Ordinance.

“Conditional use” means an uncommon or infrequent use which may be permitted in specific zoning districts subject to compliance with certain standards, explicit conditions, and the granting of a conditional use permit.

“Drive through facilities” mean a designated place, in conjunction with a retail or service establishment, from which persons can conduct the major portion of their business without leaving their motor vehicle.

“Dwelling” or “residence” means any building or portion thereof which is designed or used for residential purposes, but not including a cabin, hotel, motel, rooming house, or other such accommodation used for transient occupancy.

“Multiple-family dwelling” or “multiple-family residence” means a building designed or used as a residence for three or more families living independently and doing their own cooking therein.

“Single family dwelling” or “single family residence” means a building designed for or occupied exclusively by one family.

“Two-family dwelling” or “two-family residence” means a building designed for or occupied exclusively by two families living independently.

“Essential Services” means the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conducts, cables, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare, but not including buildings.



"Failure of delivery" means that a particular notice was not received, due to circumstances beyond the control of the Village, and does not include the lack of mailing of the subject notices in the matter specified in the Ordinance.

"Family" means a person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a rooming house; hotel or motel, dormitory, lodge or similar facility, provided, however that "family" shall not include more than four (4) persons unrelated to each other by blood, marriage or legal adoption, except for Class I Type B group residential facilities.

"Group Residential Facility" means a community facility, licensed and/or authorized by the State of Ohio, which provides rehabilitative or habilitative services in a residential setting. There are two (2) classes of group residential facilities:

"Class I group residential facility" means any state, federal or locally approved dwelling or place used as a foster home for children or adults (not including nursing homes) or as a place for the care or rehabilitation of dependent or pre-delinquent children, for the physically handicapped or disabled, or for those with mental illness or developmental disabilities. A Class I Type A facility contains more than five (5) residents, exclusive of staff. A Class I Type B facility contains five (5) or fewer residents, exclusive of staff.

"Class II group residential facility" means any state, federal or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a halfway house providing residence for persons leaving correctional institutions; and residential rehabilitation centers for alcohol and/or drug abusers, provided that detoxification is expressly prohibited on such premises. A Class II Type A group residential facility contains more than five (5) residents, exclusive of staff. A Class II Type B facility contains five (5) or fewer residents, exclusive of staff.

"Floor area" of a building means the sum of the gross horizontal areas of the building floors, measured from the exterior faces of exterior walls. Floor area shall not include basements, elevator and stair bulkheads, unfinished attic spaces, terraces, breezeways, open porches, uncovered steps, or garages.

"Frontage" or "lot frontage" means that portion of the lot that directly abuts the street, and has direct access thereto. Lot frontage shall be measured along the minimum building setback line for the district within which such lot is located.

"Garage, private" means a building, or portion of building, designed or used for the storage of motor-driven vehicles owned and/or used by the occupants of the principal use of the property.

"Home occupation" means any occupation or profession conducted primarily by immediate resident family members, which is clearly incidental and secondary to the dwelling's residential use. A home occupation must meet the standards and requirements specified in Section 26.04 of this Ordinance.

"Hospital" means a building or structure containing beds for at least four (4) patients allowing for overnight or continuous care, diagnosis and treatment of human ailments.

"Hotel" or "motel" means a building in which lodging is provided or offered to the public for compensation and which is open to transient guests, in contradiction to a boarding house or lodging house operated on a membership basis.

"Lot" means a division of land separated from other divisions for purposes of sale, lease, or separate use, described on recorded subdivision plat, recorded map or by metes and bound, and includes the terms "plat" and "parcel".

"Corner lot" means any lot at the junction of and abutting on two (2) or more intersecting streets, where the angle of intersection is not more than 135 degrees.

"Rear lot line" means that lot line which is opposite and furthest removed from the front lot line. In the case of a corner lot, the rear lot line is opposite and furthest removed from the front lot line of least dimension.

"Side lot line" means the lot line running from the front lot line to the rear lot line. This line is also the line dividing two (2) interior lots.

"Lot of record" means any lot which individually or as a part of a subdivision has been recorded as in the Office of the Guernsey County Recorder as of the effective date of this Ordinance.

"Minimum area of lot" means the area of a lot computed exclusive of any portion of the right-of-way or any public thoroughfare.

"Lot width" is the width of a lot at the building setback line measured at right angles to its depth.

"Manufacturing" means any production or industrial process, including food processing, which combines one (1) or more raw materials or components into a product or which changes the nature of the materials entering the process, and which by the nature of the materials, equipment and/or process utilized is not objectionable by reason of odor, noise, vibration, gas fumes, dust, smoke, refuse, or water-carried wastes.

"Nonconforming use" means the use of land or a building, or a portion thereof, which does not conform with the use regulations of the district in which it is situated, which use was lawful prior to the enactment of this Zoning Ordinance.

"Nursery" or "Day care center" means a facility which temporarily assumes responsibility for more than four (4) children other than those related to the resident of the premises. Such responsibility shall consist of administering to the needs of those children during any part of a twenty-four (24) hour day for a period of two (2) consecutive days.

"Nursing home" includes convalescent and extended care facilities; an establishment which specializes in providing necessary care, shelter and nursing services and services to those unable to be responsible for themselves.

“Open space” means that part of a zoned property, including courts or yards, which is open and unobstructed from its lowest level to the sky, accessible to all tenants upon the zoning property.

“Off-street parking space” means any parking space located wholly off any street, alley, or sidewalk, either in an enclosed building or on an open lot and where each parking space conforms to the standards as specified in Article XXVII of this Ordinance.

“Parking area” or “parking lot” means any area other than street, drive, or alley used or intended to be used for the storage of motor vehicles, with or without a fee.

“Personal services” means any enterprise, conducted for gain, which primarily offers services to the general public such as shoe repair, watch repair, retail dry cleaning, barber and beauty shops, and related activities.

“Professional offices” means the offices which engage in the providing to the general public services of a professional nature such as legal, medical, accounting, and architectural services.

“Recreational facilities” means public or privately-operated uses such as country clubs, golf courses, swimming pools, or other areas maintained for the purpose of providing active and passive recreation.

“Residence” - see “Dwelling”.

“Restaurant” means a business establishment where food and beverages are prepared and presented for human consumption on the premises.

“Retail stores” means stores primarily engaged in selling merchandise for personal or household consumption and in rendering services incidental to the sale of goods.

“Right-of-way” means a strip of land lying between property lines, wherein is located a street, thoroughfare, alley or easement dedicated or otherwise acquired for use by the public.

“Similar use” means a use not specifically listed in any of the permitted building or use classifications of any district, but which may be found analogous and added to the classification, according to the procedures and requirements of Section 10.02.05 of this Ordinance.

“Street” and “thoroughfare” means a public way for the purpose of vehicular travel, including the entire area within the right-of-way.

“Structure” means anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground, including among other things walls, buildings, and patios.

“Structural alteration” means any change which would replace or tend to prolong the life of a supporting member of a structure, such as bearing walls, columns, beams, or girders.

“Use” means the purpose for which a building is arranged, designed, or intended, or for which either land, lot, piece or parcel thereof or a building located thereon or may be occupied or maintained.

“Variance” means a modification from 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 action by the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. A variance shall not include allowing a use not permissible under this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

“Village” means the Village of Byesville, Guernsey County, Ohio.

“Yard” means 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 level of the graded lot upward.

“Front yard” means that portion of a lot extending across the front of the lot between the side lot lines and being the minimum horizontal distance between the street right-of-way and the front of the building or structure.

“Rear yard” means that portion of a lot extending across the rear of the lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear of the building or structure.

“Side yard” means that portion of a lot that is located between the side lot line and the nearest building or structure.

“Zoning permit” means an official statement certifying that a proposed building or use complies with all the provisions of this Zoning Ordinance.

“Zoning District” means a portion of the Village within which certain regulations and requirements or various combinations thereof apply under the provisions of this Zoning Ordinance.

“Zoning district map” means the Zoning District Map of the Village, together with all amendments subsequently adopted by the Village Council.

“Zoning inspector” means the zoning enforcement officer of the Village who is charged with the duty of enforcing the provisions of this Zoning Ordinance.

**PART TWO**  
**ADMINISTRATION AND ENFORCEMENT**

## **ARTICLE III**

### **ADMINISTRATIVE BODIES AND THEIR DUTIES**

#### **Section 3.01 Zoning Inspector**

##### **3.01.01 Office of Zoning Inspector Established**

The Zoning Inspector, who shall be appointed by the Mayor with the approval of Village Council, shall enforce the Zoning Ordinance. All officials and employees of the Village shall assist the Zoning Inspector by reporting to him/her any new construction, reconstruction, or apparent violations to this Ordinance.

##### **3.01.02 Relief From Personal Liability**

The Zoning Inspector, and any officer or employee who acts in good faith and without malice in the discharge of his/her duties during enforcement of this Ordinance is relieved of all personal liability for any damage that may accrue to persons or property as a result of such acts, or alleged failure to act. Further, he/she shall not be held liable for any costs in any action, suit or proceeding that may be instituted against him/her as a result of the enforcement of this Ordinance. In any of these actions, the Zoning Inspector shall be defended or represented by the Village until the final termination of the proceedings.

##### **3.01.03 Duties of Zoning Inspector**

For the purposes of this Ordinance, the Zoning Inspector shall have the following duties:

- A. Enforce the provisions of this Ordinance and take such steps as may be necessary to remedy violations. Such steps include entering private property to inspect conditions, ordering, in writing, the discontinuance of illegal uses or work in progress, and directing cases of noncompliance to the appropriate Village official(s) for action.
- B. Issue zoning permits and Certificates of Zoning Compliance when the procedures and standards of this Ordinance have been followed.
- C. Make and keep all records necessary and appropriate to the office including records of issuance and denial of zoning permits and receipt of complaints of violation of the Zoning Ordinance and action taken on same.
- D. Inspect any buildings or lands to determine whether any violations of the Zoning Ordinance have been committed or exist.
- E. Upon finding that any violations exist, he/she shall notify in writing the person responsible for such violation, ordering such action(s) as needed to correct such violations.

- F. Advise the Planning and Zoning Commission of matters pertaining to the enforcement of and amendments to the Zoning Ordinance, as well as conditional use permits, appeals, or variances, and all applications and records pertaining thereto.

**Section 3.02 Planning and Zoning Commission**

**3.02.01 Planning and Zoning Commission Established**

Pursuant to Section 713.01 of the Ohio Revised Code (ORC), there is hereby established a Planning and Zoning Commission for the Village of Byesville. Pursuant to ORC Section 713.11, the Planning and Zoning Commission shall serve as, and is hereby granted the authority of, both Village Planning Commission and Board of Zoning Appeals.

**3.02.02 Membership and Terms**

The Planning and Zoning Commission shall consist of five (5) members, consisting of the Mayor, one (1) member of Village Council, and three (3) residents of the Village, all to be appointed by the Mayor with the approval of Village Council for terms of six (6) years each, except for the term of one of the members of the first Commission shall be four (4) years and one for two (2) years. All vacancies shall be filled by the Mayor, with the approval of Council. If, within a period of sixty (60) days after a vacancy occurs, the Mayor has not appointed a new member to fulfill that vacancy, the President of Council may appoint a member to fill that vacancy, with the approval of Council.

**3.02.03 Removal of Members**

Members of the Commission shall be removable for non-performance of duty, misconduct in office, or other cause by the Village Council, after a hearing has been held before Village Council regarding such charges. The Mayor or any Council member may submit charges in writing. Charges against any Planning and Zoning Commission member shall be reviewed by the Village Solicitor prior to any formal public hearing. The member shall be given the opportunity to be heard and answer such charges.

**3.02.04 Quorum**

Three (3) members of the Commission shall constitute a quorum. Any action by the Commission must be by a concurring vote of the majority of the total Commission membership.

### 3.02.05 Procedures

- A. The meetings of the Commission shall be public, however, the Commission may go into executive session, as permitted by ORC Section 121.22, as amended, for discussion but not for vote on any case before it. The Commission shall organize annually and elect a Chairman. The Commission shall adopt, from time to time, such rules and regulations as it may deem necessary to carry into effect the provisions of this Zoning Ordinance.
- B. 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 action, all of which shall be immediately filed in the Village offices and shall be a public record.
- C. The Commission shall have the power to subpoena witnesses, administer oaths and may require the production of documents, under such regulations as it may establish.

### 3.02.06 Powers and Duties

In addition to the powers and duties authorized in Sections 713.02 through 713.11 of the Ohio Revised Code, the Planning and Zoning Commission shall have the following powers and duties pursuant to this Ordinance:

- A. Review proposed amendments to this Zoning Ordinance or Official Zoning Map and make recommendations to Village Council, pursuant to Article V of this Ordinance.
- B. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Inspector, in accordance with Article VI of this Ordinance.
- C. Authorize such variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions of the land, a literal enforcement of this Ordinance will result in unnecessary hardship in accordance with the provisions of Article VI of the Ordinance.
- D. Determine similarity of uses, pursuant to Section 10.02.05 of this Ordinance.
- E. Interpret the boundaries of the Official Zoning Map, in accordance with the provisions of this Ordinance.
- F. Authorize the substitution or extension of nonconforming uses, as specified in Article IX of this Ordinance.
- G. Declare zoning permits void, pursuant to Section 8.03 of this Ordinance.
- H. Make a recommendation for the zoning of newly annexed areas to the Village, in accordance with Section 11.04 of this Ordinance.



**Section 3.03 Powers of Zoning Inspector, Planning and Zoning Commission and Village Council 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. Such questions shall be presented to the Planning and Zoning Commission only on appeal from the decision of the Zoning Inspector, and recourse from the decisions of the Commission shall be only to the courts as provided by law pursuant to Chapter 2506 of the Ohio Revised Code. It is further the intent of this Ordinance that the powers of the Village Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. Village Council shall not have the authority to override the decisions of the Planning and Zoning Commission and/or the Zoning Inspector on matters of appeal or variance.

## **ARTICLE IV**

### **ENFORCEMENT AND PENALTY**

#### **Section 4.01 Zoning Permit 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. Zoning permits shall be issued only in conformity with the provisions of this Ordinance unless the Zoning Inspector receives a written order from the Planning and Zoning Commission, deciding on appeal or variance, as provided by this Ordinance.

#### **Section 4.02 Conditions Under Which a Zoning Permit is Required**

A zoning permit is required for any of the following:

- A. Construction or structural alteration of any building, including accessory buildings.
- B. Occupancy and use of vacant land.
- C. Change in use of an existing building or accessory building to a use not listed as a permitted use in the zoning district where the building is located.
- D. Change in the use of a nonconforming building or structure.

#### **Section 4.03 Application for Zoning Permit**

Applications for a zoning permit shall be obtained from the Zoning Inspector or the Village Clerk. At a minimum, the application shall contain the following information:

- A. Name, address, and telephone number of the applicant.
- B. Legal description of property, as recorded in Guernsey County Recorder's office.
- C. Existing and proposed uses
- D. Zoning district in which property is located.
- E. Plans and/or drawings drawn to approximate scale, showing the dimensions and shape of the lot to be built upon; and the dimensions and location of existing and/or proposed buildings or alterations.
- F. Height of proposed buildings or alterations.
- G. Number and dimensions of existing and proposed off-street parking or loading spaces, if applicable.
- H. In every case where the lot is not provided with public water supply and/or disposal of sanitary wastes by means of public sewers, the application shall be accompanied by an approval by the Guernsey County Health Department of the proposed method of water supply and for disposal of sanitary wastes prior to approval by the Zoning Inspector.
- I. Such other material as may be requested by the Zoning Inspector to determine conformance with, and provide for the enforcement of this Ordinance.

Where complete and accurate information is not readily available from existing records, the Zoning Inspector may require the applicant to furnish a survey of the lot by a registered surveyor. In particular cases, the Zoning Inspector may reduce the submittal requirements for applications, when the scope and scale of the proposed action warrants.

#### **Section 4.04 Approval of Zoning Permits**

Within 30 days after the receipt, the application shall be either approved or disapproved by the Zoning Inspector, in conformance with the provisions of this Ordinance. All zoning permits shall, however, be conditional upon the commencement of work within one (1) year. One (1) copy of the application shall be returned to the applicant by the Zoning Inspector, after such copy is marked as either approved or disapproved and attested to same by the signature of the Zoning Inspector, or his/her designated agent. One (1) copy retained by the Zoning Inspector shall be forwarded to the County Auditor upon issuance of a Certificate of Zoning Compliance along with one (1) copy of the application. The Zoning Inspector shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alternation is in conformance with the provisions of this Ordinance.

#### **Section 4.05 Submission to the Director of the Department of Transportation**

Before any zoning permit is issued affecting any land within 300 feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to local officials by the Director of the Department of Transportation, or any land within a radius of 500 feet from the point of intersection of said centerline with any public road or highway, the Zoning Inspector shall give notice, by registered or certified mail to the Director of the Department of Transportation. The Zoning Inspector shall not issue a zoning permit for 120 days from the date the notice is received by the Director of the Department of Transportation. If the Director of the Department of Transportation notifies the Zoning Inspector that he shall proceed to acquire the land needed, then the Zoning Inspector shall refuse to issue the zoning permit. If the Director of the Department of Transportation notifies the Zoning Inspector that acquisition at this time is not in the public interest thereof agreed upon by the Director of the Department of Transportation and the property owner, the Zoning Inspector shall, if the application is in conformance with all provision of this Ordinance, issue the zoning permit in conformance with the provisions of Section 4.04 of this Ordinance.

#### **Section 4.06 Record of Zoning Permit**

A record of all approved zoning permits shall be kept on file in the Office of the Clerk of the Village.

**Section 4.07      Expiration of Zoning Permits**

If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, or has not been completed within two and one-half (2 1/2) years from the date of issuance thereof, said permit shall expire. It shall be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the expired permit shall not proceed unless and until a new zoning permit has been obtained or extension granted by the Planning and Zoning Commission.

**Section 4.08      Certificate of Zoning Compliance**

**4.08.01      Certificate of Zoning Compliance Required**

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 zoning compliance shall have been issued therefor by the Zoning Inspector stating that the development activity, as completed, conforms to the requirements of this Ordinance. Such certificate may take the form of an indication of final inspection and approval on the zoning permit as issued.

**4.08.02      Approval of Health Department Required**

If the property in question is not served by public water and sewer, a certificate of zoning compliance shall not be issued by the Zoning Inspector until approval of the water and sewage disposal systems have been given by the Guernsey County Health Department, or Ohio Environmental Protection Agency.

**4.08.03      Record of Certificate of Zoning Compliance**

The Zoning Inspector shall maintain a record of all certificates of zoning compliance and a copy of any individual certificate shall be furnished upon request to occupant or his legally authorized representative.

## **ARTICLE V**

### **AMENDMENTS**

#### **Section 5.01 Authority of Village Council**

Whenever the public necessity, general welfare or good zoning practice requires, Village Council may, by Ordinance, after receipt of a recommendation thereon from the Planning and Zoning Commission and subject to the procedures provided by law, amend, supplement or change the regulations, district boundaries or classifications of property now or hereafter established by this Ordinance or amendments thereof. The Planning and Zoning Commission shall submit its recommendation regarding all applications or proposals for amendments or supplements to Council.

#### **Section 5.02 Initiation of Zoning Amendments**

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

- A. By referral of a proposed amendment to the Planning and Zoning Commission by Village Council.
- B. By the adoption of a motion by the Planning and Zoning Commission submitting the proposed amendment to Village Council.
- C. By the filing of an application by at least one (1) owner or lessee of property, or his designated agent, within the area proposed or affected by the said amendment.

#### **Section 5.03 Contents of Application**

An application for amendment shall be transmitted by the applicant to the Zoning Inspector and shall contain the following information:

- A. Name, address, and phone number of the applicant.
- B. Proposed amendment to the text or legal description of the property affected.
- C. Present use and district.
- D. Proposed use and district.
- E. A map showing property lines, streets, existing and proposed zoning, and such other items as the Zoning Inspector may require.
- F. A list of all property owners within the 200 feet, contiguous to, and directly across the street from the parcel(s) proposed to be rezoned and their address as appearing on the Guernsey County Auditor's current tax list. The requirement for addresses may be waived when more than ten (10) parcels are proposed to be rezoned.
- G. A statement as to how the proposed amendment will impact adjacent and proximate properties.
- H. Any other information as may be requested by the Zoning Inspector to determine conformance with, and provide for enforcement of this Zoning Ordinance.
- I. A fee as established by the Village Council.

**Section 5.04 Recommendation by Planning and Zoning Commission**

Upon referral of the proposed Ordinance by Village Council, or the filing of an application by at least one (1) owner or lessee of the property, or their designated agent, said proposed amendment or application shall be transmitted to the Planning and Zoning Commission.

Within sixty (60) days after the first regular meeting of the Planning and Zoning Commission after the receipt of the proposed amendment, the Planning and Zoning Commission shall recommend to Village Council that the amendment be approved as requested, or it may recommend that the amendment be denied. In formulating such recommendation, the Planning and Zoning Commission may seek input from interested parties in the form of hearings, meetings, or other methods.

**Section 5.05 Action by Village Council**

**5.05.01 Public Hearing**

Before the proposed Ordinance may be passed, the Village Council shall hold a public hearing, and shall give at least thirty (30) days notice of the time and place thereof in a newspaper of general circulation in the Village. If the proposed Ordinance intends to remove 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-Treasurer, by first-class mail, at least twenty (20) days before the date of the public hearing to the owners of property within 200 feet or contiguous to, and directly across the street from such parcel or parcels to be redistricted to the address of such owners appearing on the Guernsey County Auditor's current tax list. The failure of delivery of such notice shall not invalidate such proposed Ordinance.

**5.05.02 Display of Relevant Materials**

During such thirty (30) days, the text or copy of the text of the proposed Ordinance, together with maps, plans, and reports submitted by the Planning and Zoning Board shall be on file, for public examination, in the office of the Clerk of the Village.

**5.05.03 Action by Village Council**

No such Ordinance which is in accordance with the recommendation submitted by the Planning and Zoning Commission shall be deemed to pass or take effect without the concurrence of at least a majority of the membership of the Village Council. No such Ordinance which violates,

differs from, or departs from the recommendation submitted by the Planning and Zoning Commission shall take effect unless passed or approved by not less than three-fourths (3/4) of the membership of the Village Council.

5.05.04 Criteria

In reviewing the proposed amendment and arriving at its decision, the Village Council shall consider the following factors:

- A. Compatibility of the proposed amendment with the zoning and use of adjacent land, and with land use plans for the general area.
- B. The effect of the adoption of the proposed amendment on motor vehicle access and traffic flow in the general area.
- C. The effect of the adoption of the proposed amendment upon the public health, safety and general welfare of the residents of the Village.

5.05.05 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 (10) percent 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 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.

5.05.06 Incorporation onto Zoning Map

If an amendment adopted by Village Council or approved by referendum pertains to a change on the Official Zoning Map, such change shall be incorporated onto the Map by reference to the Ordinance Number and the date of adoption.

## ARTICLE VI

### APPEALS AND VARIANCES

#### Section 6.01 Appeals

Appeals concerning interpretation or administration of this Ordinance may be taken by any owner of property or any other party with a substantial interest in the matter who is adversely affected. Such appeal shall be taken within thirty (30) days after the date of the decision, by filing with the Zoning Inspector or with the Planning and Zoning Commission a notice of appeal specifying the decision of the Zoning Inspector from which the appeal is being taken.

#### Section 6.02 Powers of the Commission

The Planning and Zoning Commission shall have the power to authorize, upon appeal in specific cases, filed as hereinafter provided, such variances from the provisions or requirements of the Ordinance as will not be contrary to the public interest. Such variances shall be granted only in cases of exceptional conditions, involving irregular, narrow, shallow, or steep lots, or other exceptional physical conditions of the land, whereby strict application of such provisions or requirements would result in practical difficulty and unnecessary hardship that would deprive the owner of the reasonable use of the land and buildings involved. No variance from strict application of any provision of this Ordinance shall be granted by the Commission unless the applicant has demonstrated that *all* the following facts and conditions exist:

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions specific to the *land* or *building* for which the variance is sought, and such conditions do not apply generally to land or buildings in the neighborhood or district in which the property is located.
- B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- C. That such unreasonable and unnecessary hardship has not been created by the appellant.
- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

Under no circumstances shall the Planning and Zoning Commission grant an appeal or variance that would allow a use not permissible under this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.



### **Section 6.03 Application for Variance and Appeals**

Any person owning or having an interest in property, after being denied a zoning permit, may file an application to obtain a variance or appeal from the decision of the Zoning Inspector. An application for a variance or appeal shall be filed with the Zoning Inspector on a form as specified for that purpose. The Zoning Inspector shall forward a copy of the application to the Planning and Zoning Commission.

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

- A. Name, address, and phone number of the applicant.
- B. Legal description of property as recorded in Guernsey County Recorder's office.
- C. A map or drawing to approximate scale, showing the dimensions of the lot and any existing or proposed building.
- D. The names and addresses of all property owners within 200 feet, contiguous to, and directly across the street from the property, as appearing on the Guernsey County Auditor's current tax list.
- E. Each application for a variance or appeal shall refer to the specific provisions of this Ordinance which apply.
- F. A narrative statement explaining the following:
  1. The use for which variance or appeal is sought.
  2. Details of the variance or appeal that is applied for and the grounds on which it is claimed that the variance or appeal should be granted, as the case may be.
  3. The specific reasons why the variance or appeal is justified, according to Section 6.02 A-E above.

### **Section 6.04 Public Hearing by the Commission**

Prior to making a decision on the proposed appeal or variance, the Commission may hold a public hearing for consideration of an appeal from a decision of the Zoning Inspector or variance. If such hearing is held, notice of such hearing shall be given in one (1) 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 date, time and place of the public hearing, and the nature of the proposed appeal or variance.

Before holding such public hearing written notice of such hearing shall be mailed by the Clerk of the Village, by first-class mail, at least ten (10) days before the day of the hearing to all parties of interest. The notice shall contain the same information as required of notice published in newspapers as specified above. Parties of interest shall include owners of property within 200 feet from, contiguous to, and directly across the street from the property being considered. Failure of delivery of such notice shall not invalidate the findings of the Commission.

### **Section 6.05      Supplementary Conditions and Safeguards**

In granting any appeal or variance, the Planning and Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 7.02 of this Ordinance.

### **Section 6.06      Action by Planning and Zoning Commission**

Within sixty (60) days after the first regular meeting of the Planning and Zoning Commission following submittal of an application filed pursuant to Section 6.03 above, the Commission shall either approve, approve with supplementary conditions or disapprove the request for appeal or variance. If the application is approved, or approved with supplementary conditions, the Commission shall 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. If the request for appeal or variance is denied, the reasons for such denial shall be noted in writing. The Commission shall transmit a written copy of its decision and findings to the Zoning Inspector, who shall forward such copy to the applicant by first class mail, or in person.

### **Section 6.07      Court of Common Pleas**

After action is taken by the Planning and Zoning Commission, the applicant, or other party adversely affected by the action, may seek relief through the Court of Common Pleas, pursuant to Chapter 2506 of the Ohio Revised Code. Such appeal must be filed within thirty (30) days from the date of the action by the Commission. A copy of the notice of appeal shall be served on the Clerk of the Village by the aggrieved party within seven (7) days from the date of filing of the appeal.

## **ARTICLE VII**

### **FEES AND VIOLATIONS**

#### **Section 7.01 Schedule of Fees, Charges and Expenses**

The Village Council shall establish, by separate ordinance, a schedule of fees, charges, and expenses and a collection procedure for zoning permits, certificates of zoning compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Clerk-Treasurer of the Village, and may be altered or amended only by the Village Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application.

#### **Section 7.02 Violation**

##### **7.02.01 Failure to Obtain a Zoning Permit, Certificate of Zoning Compliance, or Other Permit(s)**

Failure to obtain a permit or certificate as required by specific sections of this Ordinance shall be deemed a violation and punishable under Section 7.02.04 of this Ordinance.

##### **7.02.02 Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates**

Zoning permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use, and arrangement set forth in such approved plans and applications or amendments thereto. Any use, arrangement, or construction not in conformance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided in Section 7.02.04 of this Ordinance.

##### **7.02.03 Complaints Regarding Violations**

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. The Zoning Inspector shall record such complaint, immediately investigate, and take such appropriate action thereon as may be necessary and provided for by this Ordinance.

##### **7.02.04 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 requirements thereof, shall, upon conviction, be fined not more than \$100 and in addition shall pay all costs and expenses involved in the case. Each day such violation continues, after receipt of 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, agent, 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 such other lawful action as is necessary to prevent or remedy any violations.

Penalties as above shall apply unless penalties are defined for specific sections of this Ordinance, in which case the penalties so defined in those sections shall apply.

### **Section 7.03      Void Zoning Permit**

A zoning permit shall be void if any of the following conditions exist:

- A.      The zoning permit was issued contrary to the provisions of this Ordinance by the Zoning Inspector.
- B.      The zoning permit was issued based upon a false statement by the applicant.

When a zoning permit has been declared void for any of the above reasons by the Planning and Zoning Commission, written notice of its revocation shall be given by certified mail to applicant, sent to the address as it appears on the application. Such notices shall also include a statement that all work upon or use of the building, structure, or land cease unless, and until, a new zoning permit has been issued.

## **ARTICLE VIII**

### **NONCONFORMING USES**

#### **Section 8.01 Intent**

Within the districts established by this Ordinance, there may exist lots, structures, and/or uses of land or structures 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 nonconformities to continue until they are removed, but not necessarily to encourage their survival.

#### **Section 8.02 When Permitted**

##### **8.02.01 Existing Land or Buildings**

Any use of land or buildings existing on the effective date of this Ordinance may be continued, even though such use does not conform to the provisions herein, so long as such use was lawful at the time that the use or structure was established. No nonconforming building, structure, or use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as specifically provided in this Ordinance.

##### **8.02.02 Construction Commenced**

Any property purchased or acquired in good faith for any nonconforming use prior to the adoption of this Ordinance, upon which property the work of changing, remodeling or construction of such nonconforming use has been legally commenced at the time of adoption of this Ordinance, may be used for the nonconforming use for which such changing, remodeling or construction was undertaken, provided that such work is completed within two (2) years from the date of adoption of this Ordinance or amendment thereto making said use nonconforming.

#### **Section 8.03 Substitution**

The Planning and Zoning Commission shall allow the nonconforming use of a building or structure to be changed to another nonconforming use of the same or of a more restricted classification, provided no structural alterations except those required by law or ordinance are made.

A nonconforming mobile home, once removed, shall not be allowed to be relocated on another lot, or replaced with another mobile home, without specific approval of the Planning and Zoning Commission.

#### **Section 8.04 Extension**

No nonconforming use shall be enlarged, extended, reconstructed, or structurally altered, except as follows:

- A. The Planning and Zoning Commission may permit, on a once-only basis, a building containing a nonconforming use to be enlarged to an extent so the resulting building shall be not more than one-hundred-seventy-five percent (175%) of the ground floor area of the existing building or structure devoted to a nonconforming use at the time of enactment of this Ordinance. The Commission shall not authorize an enlargement which would result in a violation of the provision of this Ordinance with respect to a yard or setback affecting any adjoining premises.
- B. No nonconforming building or structure shall be moved in whole or in part to any other location unless such building or structure and the yard and other open spaces provided are made to conform to all of the regulations of the district in which such building or structure is to be located.
- C. Any residential structure which is nonconforming due to the fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered, provided it meets the requirements of the most proximate R-District.

#### **Section 8.05 Discontinuance**

A nonconforming use which has been discontinued or abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned whenever any one of the following conditions exist:

- A. When the use has been voluntarily discontinued for a period of two (2) years.
- B. When the nonconforming use has been replaced by a conforming use.

#### **Section 8.06 Damage and/or Destruction of a Nonconforming Building or Use**

When a building or structure, the use of which does not conform to the provisions of this Ordinance, is damaged by fire, explosion, or act of God to the extent that less than sixty percent (60%) of its market value is lost, it may be restored or rebuilt and continued in such nonconforming use, provided that the restoration or rebuilding is commenced within one (1) year of the time of damage that construction is completed within two (2) years, and that such restoration or rebuilding would not extend or expand the existing use. If more than sixty percent (60%) of the market value is lost, the building or structure may not be restored or rebuilt in such a manner so as to continue the nonconforming use.

In the administration of this Section, if disagreement occurs as to the market value of a particular property, that market value shall be determined by an independent appraiser as selected and mutually agreed to by the applicant and

the Village. Such appraisals shall be performed according to a comparable value method of appraisal.

### **Section 8.07 Maintenance and Repair**

Nothing in this chapter shall be deemed to prevent normal maintenance and repair of a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use as follows:

- A. When required by law.
- B. To convert to a conforming use.
- C. A building or structure containing residential nonconforming uses may be so altered as to improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the district in which such building is located.

### **Section 8.08 Nonconforming Lots of Record**

In any district where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record on the effective date of this Ordinance, even though such lot does not comply with the lot area and width requirements of the district in which it is located, provided said lot has a minimum of forty (40) feet frontage on a public street; and further provided the following conditions are complied with:

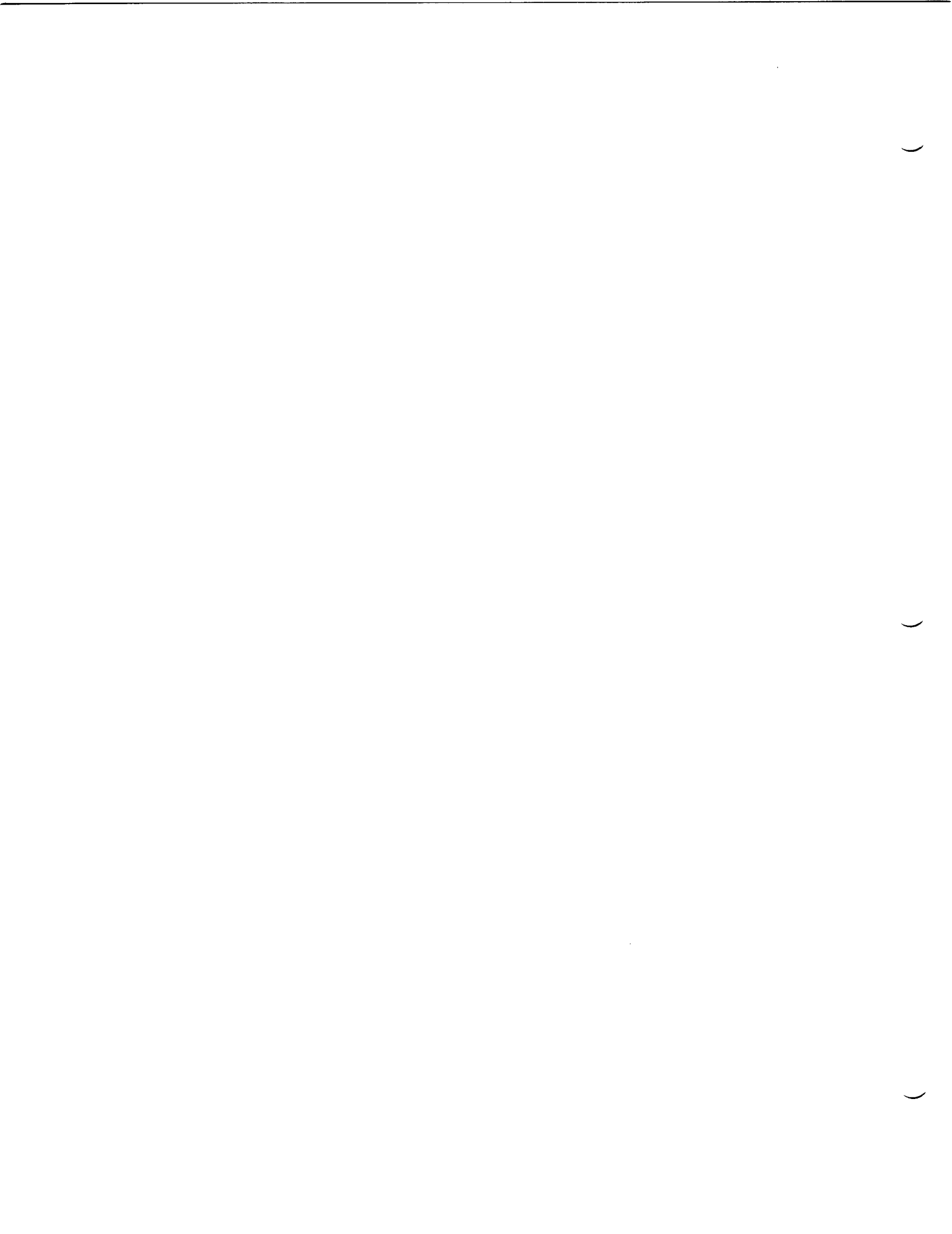
- A. In any district where dwellings are permitted, two (2) inches may be deducted from the required minimum width of each side yard and four (4) inches from the required sum of minimum widths of both side yards for each foot that the lot is narrower than the required width for the district. In no case, however, shall any side yard be narrower than three (3) feet.
- B. For lots having a depth of less than 100 feet, the depth of the rear yard need not exceed 25 percent of the total depth of the lot, but shall not be less than 20 feet.



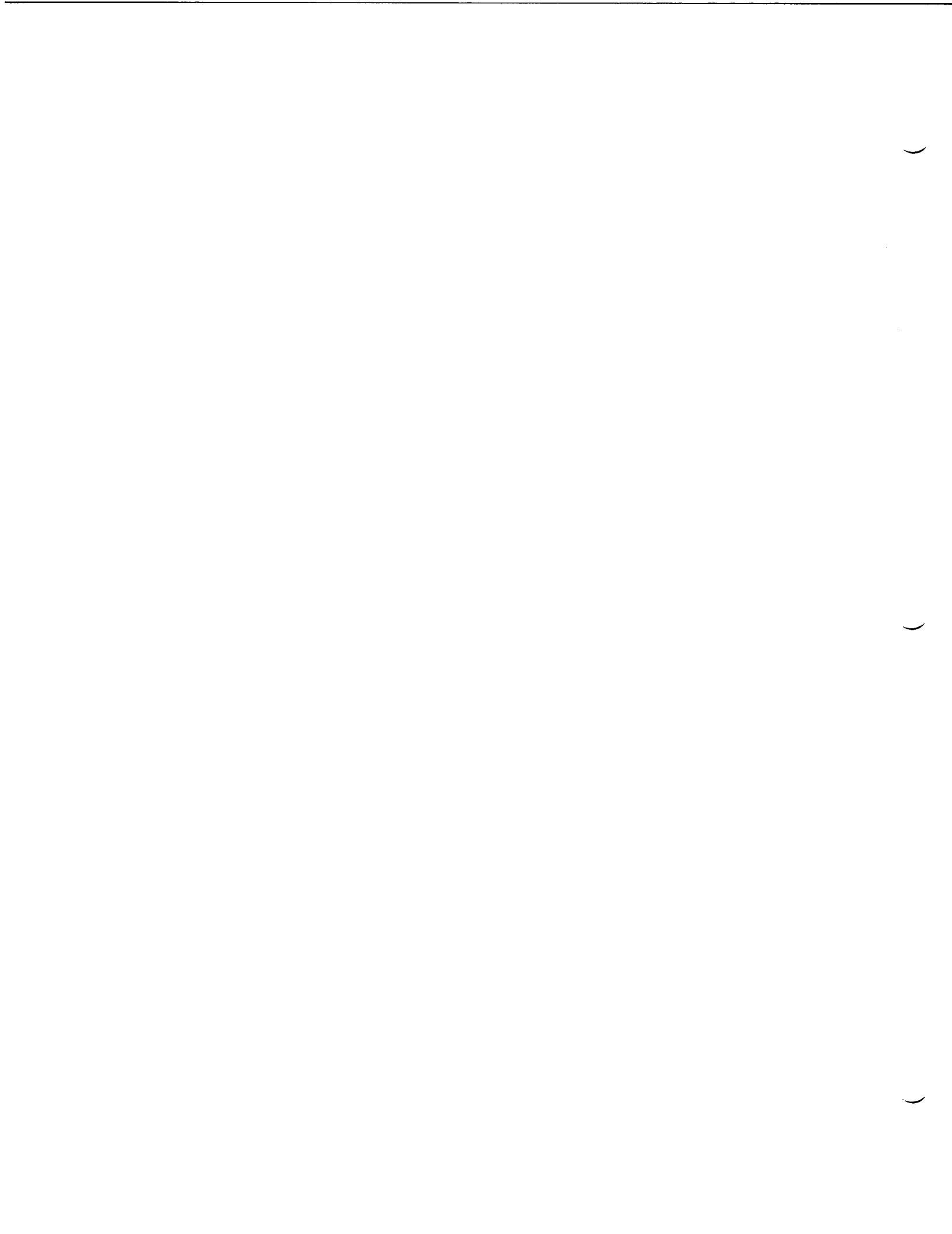


**ARTICLE IX**

***RESERVED FOR FUTURE USE***



**PART THREE**  
**ZONING DISTRICTS**



**ARTICLE X  
STANDARD ZONING DISTRICT REGULATIONS**

**Section 10.01 Regulation of the Uses of Land or Structures**

Regulations pertaining to the use of land and/or structures, and the physical development thereof within each of the zoning districts as established in Article XI, are hereby established and adopted.

**Section 10.02 Rules of Application**

**10.02.01 Identification of Uses**

Listed uses are to be defined by their customary name or identification, except as specifically defined or limited in this Ordinance.

**10.02.02 Permitted Uses**

- A. Only a use designated as permitted shall be allowed as a matter of right in any zoning district, and any use not so designated shall be prohibited unless:
  - 1. A permitted use may be added to a zoning district by formal amendment, in conformance with Article V of this Ordinance.
  - 2. An unlisted use may be determined by the Planning and Zoning Commission to be a similar use, in accordance with Sections 10.02.05 of this Article.
- B. No more than one (1) permitted use shall exist on any one zoning lot.

**10.02.03 Accessory Uses**

An accessory use or structure is a subordinate use or structure clearly incidental and secondary to the principal permitted building or use, and located on the same lot with such principal building or use. Accessory uses or structures shall be allowed in accordance with the specific district regulations, and the requirements of Article XXVI of this Ordinance.

**10.02.04 Conditional Uses**

A use designated as a conditional use shall be allowed in the zoning district where the designation occurs, when such specific use, its location, extent and method of development is approved by the Planning and Zoning Commission. In approving a conditional use, the Planning and Zoning Commission shall find that the proposed use:

- A. is consistent and in accordance with the specific conditions in the district regulations where the conditional use is listed, and the general objectives of this Zoning Ordinance.
- B. is harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- C. will not be a threat to the health and/or safety to existing or future neighboring uses.
- D. will be served adequately by essential public facilities .
- E. will have vehicular access to the property which shall be so designed to not create adverse impacts on traffic on surrounding public streets or roads.
- F. will not impose unreasonable levels of noise, smoke, dust, odor, fumes, vibration or glare upon nearby uses.

To this end, the Planning and Zoning Commission may, in addition to the development standards for the specific district, set forth such additional requirements as will render the conditional use compatible with existing and future use of adjacent lots in the vicinity.

#### 10.02.05 Similar Uses

Determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be considered as a permitted use in that district.

Applications for zoning permits for uses not specifically listed in the permitted building or use classifications of the zoning district, which the applicant feels qualify as a similar use under the provisions of this Section, shall be submitted to the Planning and Zoning Commission.

Within thirty (30) days after such submittal, the Planning and Zoning Commission shall determine whether the requested use is similar to those uses permitted in the specific district. In order to find that a use is similar, the Planning and Zoning Commission shall find that all of the following conditions exist:

- A. Such use is not listed as a permitted or conditional use in another zoning district.
- B. Such use conforms to basic characteristics of the district to which it is to be added and is more appropriate to it than to any other district.
- C. Such use creates no danger to health and safety, creates no unreasonable noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences, and does not create traffic congestion to an extent greater than normally resulting from uses listed in the classification to which it is to be added.

10.02.06 Development Standards

Development standards set forth shall be the minimum allowed for uses permitted in that district. If development standards are in conflict with requirements of any other lawfully adopted rule, regulation, or law, the most restrictive standard shall govern.

10.02.07 Development Plan

For particular uses in specific districts, a Development Plan will be cited as required. In such cases, the Development Plan shall be submitted by the applicant at the time of the application for a zoning permit. The Development Plan shall contain a site plan for the property, drawn to scale, showing all property lines and building outlines, access drives, parking areas, and other notable physical features. The Development Plan shall also show the size, design, materials and location of all signage proposed for the development. The Development Plan shall contain a narrative description of the proposed use, and how such use will impact adjacent residential property

The Development Plan shall be reviewed by the Planning and Zoning Commission and must be approved as a condition for the issuance of a zoning permit. In approving a Development Plan, the Planning and Zoning Commission shall find that the following criteria have been met:

- A. The proposed building or use shall have sufficient yard space to provide for adequate parking and screening of adjacent residential areas in accordance with this Article.
- B. The Development Plan for the proposed facility has incorporated measures to lessen and/or alleviate adverse impacts on adjacent residential areas and to protect the residential character of such areas.
- C. The location, design and operation of the tourist or community facility shall not impose undue adverse impacts on surrounding residential neighborhoods.

10.02.08 Essential Services

Essential Services, as defined and specified in Article II of this Ordinance, shall be permitted in any and all zoning districts within the Village.

**ARTICLE XI  
ZONING DISTRICTS AND ZONING DISTRICT MAP**

**Section 11.01 Zoning Districts Established**

The following zoning districts are hereby established for the Village of Byesville:

- (SR) Suburban Residential District
- (OVR) Old Village Residential District
- (MH-R) Manufactured Home Residential District
- (AR) Apartment Residential District
- (CB) Community Business District
- (DE) Downtown Enterprise District
- (I) Industrial District
- (SU) Special Use District
- (FP) Flood Plain Overlay District

**Section 11.02 Official Zoning District Map**

The districts established in Section 11.01 of this Ordinance are shown on the Official Zoning District Map, which together with all notations, references, data, district boundaries and other explanatory information, is hereby adopted as a part of this Ordinance. The Official Zoning District Map shall be identified by the signatures of the Mayor, and the Clerk, and shall be on file in the Village Hall.

**Section 11.03 Interpretation of Zoning District Boundaries**

Except where referenced and noted on the Official Zoning District Map by a designated line and/or dimensions, the district boundary lines are intended to follow property lines, lot lines, center lines of streets, alleys, streams and/or railroads as they existed at the time of passage of this Ordinance. The Zoning Inspector shall interpret the boundary lines from the Official Zoning District Map. When and if the Zoning Inspector's interpretation of such boundary line is disputed, the final interpretation authority shall rest with the Planning and Zoning Commission.

**Section 11.04 Newly Annexed Areas**

Territory which is annexed into the Village of Byesville subsequent to the effective date of this Ordinance shall, upon the effective date of the annexation, be zoned into the SR District. Within three (3) months subsequent, or at any time prior, to the date of annexation, the Planning and Zoning Commission shall present a zoning plan for the annexed territory to Village Council. Village Council may hold a public hearing on the proposed zoning plan, as recommended by the Commission. If such hearing is held, notice of such hearing shall be given in a newspaper of general circulation within the



municipality not less than thirty (30) days before the date of the hearing. After said hearing, Village Council shall approve, or approve with modification, the zoning plan.

Nothing in this Section shall prevent the owner of property within the annexed territory from applying for a zoning amendment, after the effective date of annexation, pursuant to the procedures specified in Article V of this Ordinance.

**ARTICLE XII  
(SR) SUBURBAN RESIDENTIAL DISTRICT**

**Section 12.01 Purpose**

The Suburban Residential District is established to provide for new single-family residential development within the Village at densities typical of contemporary suburban environments. The SR District is to be utilized in areas on the periphery of the Village that are generally vacant at the time of development, but are serviceable by public water and sewer. It is the intent of the SR District to discourage large concentrations of intensive development where that density would be inconsistent with the existing character of the area.

**Section 12.02 Permitted Uses**

- A. One-family detached dwellings.

**Section 12.03 Accessory Uses**

- A. Accessory buildings or structures customarily associated with single-family residential use, including detached garages or carports, tool or garden sheds, playhouses swimming pools and tennis courts and similar facilities for primary use by occupants of the principal use of the property on which the facility is located, subject to the requirements of Article XXVI of this Ordinance.

**Section 12.04 Conditional Uses**

- A. Home occupations, subject to the requirements of Section 26.04 of this Ordinance.
- B. Public parks and open space.
- C. Public playgrounds.

**Section 12.05 Development Standards**

12.05.01 Minimum Lot Area

12,000 square feet

12.05.02 Minimum Lot Width

For each principal use, there shall be lot width of not less than eighty (80) feet with frontage on a publicly dedicated, improved street or highway. Minimum lot width on curved street shall be fifty (50) feet.

- 12.05.03 Minimum Front Yard Depth  
Thirty (30) feet.
- 12.05.04 Minimum Side Yard Width  
Twelve (12) feet.
- 12.05.05 Minimum Rear Yard Depth  
Thirty (30) feet.
- 12.05.06 Maximum Percent of Lot Coverage  
Thirty Percent (30%)
- 12.05.07 Maximum Building Height  
Thirty-five (35) feet.

**ARTICLE XII  
(OVR) OLD VILLAGE RESIDENTIAL DISTRICT**

**Section 13.01 Purpose**

The OVR District is established to provide for the continuance of single-family housing within the older portions of the Village of Byesville, and the allow for expansion of such uses at densities consistent with existing development, thereby encouraging private reinvestment and revitalization in such areas, and increasing the diversity of housing choice while maintaining adequate development standards.

It is recognized that property in the OVR District is located in the older areas of the Village, and that such areas likely to be characterized by patterns of mixed land use. Many of these mixed uses are the result of past development practices and might not be allowed under the current provisions of this OVR District. It is the intent of this Ordinance, and this district in particular, to *protect and preserve the basic property rights* of such existing nonconforming uses. Specific provisions are made for the continuance, substitution and extension of such use, pursuant to Article VIII of this Ordinance and Section 713.15 of the Ohio Revised Code.

The district can also be used to allow for new development in outlying areas of the Village by meeting standards intended to promote the historic neighborhood character of such new development.

**Section 13.02 Permitted Uses**

- A. One-family detached dwellings.
- B. Public parks, playgrounds and open space.

**Section 13.03 Accessory Uses**

- A. Accessory buildings or structures customarily associated with single-family residential use, including detached garages or carports, tool or garden sheds, playhouses swimming pools and tennis courts and similar facilities for primary use by occupants of the principal use of the property on which the facility is located, subject to the requirements of Article XXVI of this Ordinance.

**Section 13.04 Conditional Uses**

- A. Home occupations, subject to the requirements of Section 26.04 of this Ordinance.
- B. Churches and places of public worship, provided the seating capacity of the sanctuary is not more than 400 persons.
- C. Day-care centers and schools associated with conditionally permitted churches.
- D. Two- and three-family dwellings, subject to the development standards of the AR District.
- E. Bed-and-Breakfast establishments, subject to the following standards:
- F. A commercial style structure or building, constructed prior to the implementation of zoning standards and this Ordinance, may be operated, or continue use as a commercial facility and/or business, including but not limited to buildings and structures formerly utilized as schools and churches.

1. Structures shall maintain the appearance of a single-family residence and be compatible with surrounding residences, in size and scale
2. Lighting shall be limited to those types customarily found in residential neighborhoods. Any lights shall be arranged so as not to shine on adjacent properties.
3. Exterior signage shall be limited to a single nameplate not more than two (2) square feet in size. No signs shall be internally illuminated
4. Not more than one (1) person shall be employed that is not a resident of the dwelling.
5. Accommodations shall be provided for not more than three (3) guest rooms.

**Section 13.05      Development Standards**

13.05.01      Minimum Lot Area

6,000 square feet.

13.05.02      Minimum Lot Width

Fifty (50) feet of lot width with frontage on a publicly dedicated, improved street or highway.

13.05.03      Minimum Front Yard Depth

Twenty (20) feet, or the distance of the most proximate existing principal structures on the same side of the street and facing thereon within the same block, whichever is less.

13.05.04      Minimum Side Yard Depth

Five (5) feet.

13.05.05      Minimum Rear Yard Depth

Fifteen percent (15%) of lot depth, but not less than twenty (20) feet.

13.05.06      Maximum Building Height

Thirty-five (35) feet.

13.05.07      Additional Requirements for New Lots Developed in the OVR District

Presently undeveloped areas outside the older portion of the Village may be developed in the OVR District, subject to the following regulations:

A. Development Plan

A Development Plan shall be required for all new residential development within the OVR District, containing more than five (5) dwelling units. Such Development Plan shall show the proposed layout of all streets, lots and buildings, as well as the location of all public spaces.

B. Garages

All garages shall be located within the rear yard.

C. Street Trees

Street trees shall be required along all new streets developed within OVR District. The spacing of trees along streets shall be not less than thirty (30) feet on center. A minimum of twelve feet (12') of overall height or a minimum caliper (trunk diameter measured six inches above the ground) of at least two inches (2") shall be required.

D. Sidewalks

Sidewalks of not less than four (4) feet in width shall be required for both sides of all new streets developed within the OVR District.

E. Required Open Space

Not less than 20% of the total net developable area of the proposed development shall be dedicated to permanent open space parks, and/or public spaces. Such open space shall be granted to a homeowner's association, or - with the approval of the Village Council - may be granted to the Village. For the purposes of this calculation, net developable area shall mean the area of the site proposed for development, minus public and/or private streets and/or alleys.

F. Adjacent to OVR District

The property to be zoned for new OVR development must be located adjacent to area of the Village zoned in the OVR District.

**ARTICLE XIV  
(MH-R) MANUFACTURED HOME RESIDENTIAL DISTRICT**

**Section 14.01 Purpose**

The Village of Byesville recognizes that manufactured housing presents residential opportunities and options, especially related to cost, which are unavailable with conventional site-built housing. Nonetheless, such manufactured housing has unique development characteristics that require special treatment in regard to location, placement and land use compatibility.

The Manufactured Home Residential (MH-R) District is established to provide areas for manufactured homes so as to provide a desirable residential environment, protected from adverse neighboring influences, with adequate access for vehicular traffic and circulation. These residential communities shall be developed and located so as to not promote excessive vehicular traffic on streets in adjoining neighborhoods, and shall provide overall desirability equivalent to that for other forms of residential development.

**Section 14.02 Definitions**

For the purposes of this Article, the following terms shall be defined as specified herein:

- A. "Manufactured Housing" shall mean any non-self-propelled vehicle transportable in one or more sections which, in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or, when erected on the site, is 320 or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. In addition, such unit shall bear a label certifying that it is built in compliance with Federal Manufactured Housing Construction and Safety Standards (1974).
- B. "Manufactured Home Community" shall mean a development constructed primarily for manufactured homes, with continuing local general management and with special facilities for common use by occupants, including such items as common recreational buildings and/or common open space
- C. "Manufactured Home Subdivision" shall mean a development constructed primarily for manufactured homes, in which each lot in the development is independently owned by the respective owners of the dwelling units located on such lots.
- D. "Modular Home" means a non-site-built home that is certified as meeting the requirements of the State of Ohio Building Code for *modular housing*. For the purposes of this Ordinance, once certified by the State of Ohio, modular homes shall be subject to the same standards as site-built homes
- E. "Mobile Home" shall mean a transportable, non-site-built dwelling unit designed to be used as a year-round residential dwelling, and built prior to the Federal Manufactured Housing Construction and Safety Standards Act of 1974,

which became effective June 15, 1976. Because mobile homes, as herein defined, were not constructed to accepted standards, such mobile homes shall not be considered as a permitted or conditional use in the MH-R District or any area of thg Village.

### **Section 14.03 Permitted Uses**

- A. One-family detached dwellings.
- B. Individual manufactured homes on individual lots.
- C. Manufactured home communities, subject to approval of a Development Plan as cited in Section 10.02.07 of this Ordinance..
- D. Manufactured Home subdivisions subject to approval of a Development Plan as cited in Section 10.02.07 of this Ordinance.
- E. Public or private parks or playgrounds

### **Section 14.04 Accessory Uses**

- A. Uses and structures incidental and accessory to specified permitted uses to include common areas, community/recreational facilities and offices for rental and management of units therein.

### **Section 14.05 Conditional Use**

- A. Nursery schools and/or day care centers

### **Section 14.06 Development Standards**

The following standards for the arrangement and development of land and buildings are required in the MH-R District.

#### **14.06.01 Minimum Lot Area**

- A. The minimum lot area for any manufactured home community shall be ten (10) acres. Maximum gross density shall not exceed six (6) dwelling units per acre.
- B. Individual manufactured home lots shall be not less than 6,500 square feet.
- C. For any other permitted use, the minimum lot area shall not be less than 10,000 square feet.

#### **14.06.02 Minimum Lot Width**

- A. The minimum lot width for any manufactured home community shall be not less than 300 feet. Frontage shall be provided on a publicly dedicated and improved street. The ratio of width to depth shall not exceed one to five (1:5).
- B. The minimum lot width for any individual lot within such a community shall be not less than thirty (30) feet.
- C. For any other permitted use, the minimum lot width shall be sixty (60) feet.



#### 14.06.03 Minimum Front Yard

- A. The minimum front yard depth for any manufactured home community shall be not less than thirty-five (35) feet.
- B. For any other permitted use, the minimum front yard depth shall be thirty (30) feet.

#### 14.06.04 Minimum Side Yard Width

- A. The minimum side yard width for any manufactured home community shall be not less than fifty (50) feet.
- B. The minimum side yard width for any individual lot within a manufactured home community shall be not less than eight (8) feet.
- C. For any other permitted use, the minimum side yard width shall be not less than eight (8) feet, with at least twenty (20) feet for the sum of side yards.

#### 14.06.05 Minimum Rear Yard Depth

- A. The minimum rear yard depth for any manufactured home community shall be not less than fifty (50) feet.
- B. The minimum rear yard depth for any individual lot within a manufactured home community shall be not less than ten (10) feet.
- C. For any other permitted use, the minimum rear yard depth shall be not less than thirty (30) feet.

#### 14.06.06 Minimum Lot Coverage

Detached dwelling units and their accessory buildings shall not occupy more than forty percent (40%) of the lot area of any individual lot within a manufactured home subdivision.

#### 14.06.07 Required Open Space and Recreational Areas

At least twenty percent (20%) of the gross land area for any manufactured home community shall be reserved for common recreational areas and facilities, such as playgrounds, swimming pools, pedestrian paths, and similar facilities. Such recreational and open space facilities shall not be a part of streets and/or parking areas, and shall be closed to motorized traffic, except for service and maintenance vehicles. Such areas shall be landscaped, improved and maintained by the owner of the development for the intended uses.

#### 14.06.08 Off-Street Parking

In manufactured home communities and conditional uses, parking spaces shall be provided for two (2) vehicles for each dwelling unit. Required parking spaces shall not be provided on public or private streets within and on the perimeter of the community. Parking shall be so arranged that there is no maneuvering incidental to parking in the travel lane of streets.

#### 14.06.09 Access

All manufactured home communities shall have direct access to collector streets with a right-of-way of not less than sixty (60) feet in width. Principal vehicular access points shall be designed to encourage smooth traffic flow. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated traffic volumes indicate need. Minor streets shall not be connected with streets outside the district in such a way so as to encourage the use of those streets by substantial amounts of through traffic. No lot within the community shall have direct vehicular access to a street bordering the development.

#### 14.06.10 Streets and Street Layout

All streets providing access to the individual lots in a manufactured home community, shall be dimensioned and improved in accordance with the current adopted standards and requirements of the Village of Byesville.

The proposed layout of streets within a manufactured home community shall be approved by the Planning and Zoning Commission. In making such determinations, the Board may procure the assistance of an engineer or other professional. All costs associated with such approval shall be paid by the applicant.

#### 14.06.11 Water and Sewer

Any manufactured home community shall be provided with a water and sanitary sewer distribution system, serving each individual home lot, which is connected to the municipal water and sanitary sewage system. The design and construction of such distribution systems shall be approved by the Ohio Environmental Protection Agency and the Village Engineer.

#### 14.06.12 Storm Drainage

All areas within a manufactured home community shall be graded and drained so as to minimize standing water and surface runoff. Open drainage ditches shall be prohibited. The proposed methods for alleviation of standing water and excessive surface runoff shall be submitted by the applicant, and approved by the Village. All costs associated with such approvals shall be paid by the applicant.

#### 14.06.14 Underground Utilities

Within any manufactured home community, all utility lines, including electricity, telephone, and cable television shall be located underground.

**ARTICLE XV  
(AR) APARTMENT RESIDENTIAL DISTRICT**

**Section 15.01 Purpose**

It is recognized that housing at higher densities creates particular opportunities and problems separate and distinct from lower density development. This district is established to provide for the continuance, redevelopment and/or limited expansion of multiple-family developments in areas best equipped to accommodate such higher density development. This district can also be used to provide for other similar forms of development, such as condominiums.

**Section 15.02 Permitted Uses**

- A. Multiple family structures having two or more dwellings per structure, including senior housing.
- B. Public or private parks

**Section 15.03 Accessory Uses**

- A. Uses incidental and accessory to multiple-family dwellings and for exclusive use of their residents, to include common recreational facilities, community swimming pools, and offices for the rental and management of units therein.
- B. Temporary buildings for uses incidental to construction work, which shall be removed upon the completion or abandonment of construction work.

**Section 15.04 Conditional Uses**

- A. Home occupations, subject to the requirements of Section 26.04 of this Ordinance.
- B. Nursery schools and day care centers.
- C. Class I Type A group residential facilities, subject to the requirements of section 26.06 of this Ordinance.

**Section 15.05 Development Standards**

**15.05.02 Minimum Lot Area**

4,000 square feet per dwelling unit for two-family dwellings. 3,500 square feet per dwelling unit for all other multiple-family dwellings. This requirement may be reduced to 3,000 square feet per dwelling unit if approved by the Planning and Zoning Commission, pursuant to Section 15.06 below.

- 15.05.02      Minimum Lot Width  
Eighty (80) feet of frontage on a publicly dedicated and improved street or highway.
- 15.05.03      Minimum Front Yard Depth  
Thirty (30) feet.
- 15.05.04      Minimum Side Yard Width  
Twenty (20) feet.
- 15.05.05      Minimum Rear Yard Depth  
Forty (40) feet.
- 15.05.06      Maximum Building Height  
Thirty-five (35) feet.
- 15.05.07      Minimum Distance between Buildings  
If there are two or more buildings on a single lot, the minimum distance between buildings shall be fifteen (15) feet.
- 15.05.08      Storm Drainage  
The application for rezoning into the AR District must include a plan showing storm drainage runoff collection points. The plan for accommodating storm drainage must be approved by the Planning and Zoning Commission.
- 15.05.09      Landscaping  
If side or rear yards are located adjacent to any district where single-family residences are a permitted use, landscaping and screening of those yards shall be required. Such landscaping and/or screening shall consist of walls, fencing, mounding, natural vegetation or a combination of these elements.

**Section 15.06    Density Bonus**

The Planning and Zoning Commission may approve a *density bonus*, on a case-by-case basis, which would allow an overall density not to exceed 3,000 square feet of lot area per dwelling unit, if it finds that the following conditions exist:

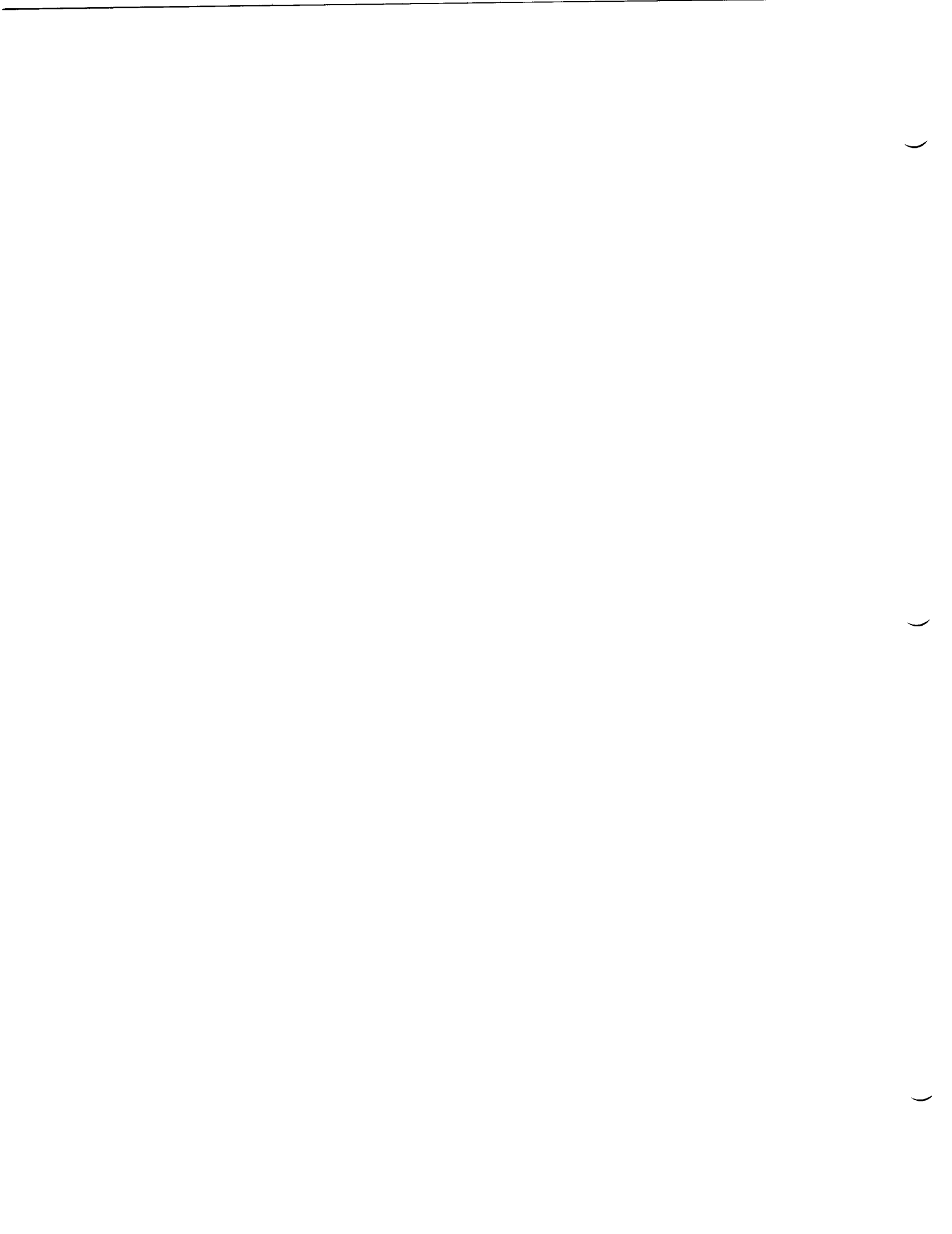
- A.      The subject site is twenty (20) acres or more and a minimum of forty (40) dwelling units is proposed.

- B. The development is located directly adjacent to a major thoroughfare.
- C. Building design and site design is of high quality and buildings are integrated with the natural features and architectural context of the surrounding area



**ARTICLE XVI**

***RESERVED FOR FUTURE USE***





**ARTICLE XVII  
(CB) COMMUNITY BUSINESS DISTRICT**

**Section 17.01 Purpose**

The Community Business District is established to provide areas for business uses that typically generate a high degree of activity dependent on high traffic volumes. The intent of the CB District is to encourage such business growth while promoting a compatible relationship between permitted uses and overall traffic movement, and minimizing negative impacts on adjacent land uses.

**Section 17.02 Permitted Uses**

- A. Administrative and business offices not carrying on retail trade with the public and having no stock of goods maintained for sale to customers including:
  - 1. Insurance agents and brokers and associated services.
  - 2. Professional, legal, engineering and architectural services, not including the outside storage or equipment.
  - 3. Accounting, auditing and other bookkeeping services.
- B. Retail Stores primarily engaged in selling merchandise for personal or household consumption including:
  - 1. Food and food products, consisting of grocery, meat, fish, fruit or vegetable markets or combinations thereof.
  - 2. General merchandise, including limited price variety stores and other similar stores selling a variety of general merchandise.
  - 3. Similar retail stores selling specialty goods, including: drug stores, hardware and home repair goods, gift and novelty stores, etc..
- C. Personal Services, involving the care of the person and his/her personal effects, including consumer services generally involving the care and maintenance of tangible property or the provision of tangible services for personal consumption including:
  - 1. Restaurants and taverns,
  - 2. Banks, savings and loans, and credit agencies
  - 3. Barber and beauty shops.
  - 4. Self-service laundries and/or dry-cleaning establishments.
  - 5. Human medical and/or dental clinics
  - 6. Funeral services.
- D. Business Services engaged in the providing of services to business establishments on a free or contract basis, consulting services, protective services, office equipment rental, lease or purchase, commercial research and development.
- E. Commercial recreational facilities such as community and public swimming pools, skating rinks, bowling alleys, physical fitness centers.
- F. Lumber and home improvement sales.
- G. Motor vehicle sales and service establishments.
- H. Hotels and motels.
- I. Garden centers.
- J. Carry out food and beverage establishments with drive-through facilities.
- K. Self-service storage facilities

- L. Similar uses, as determined by the Planning and Zoning Commission, in accordance with the provisions by Section 10.02.05 of this Ordinance.

### Section 17.03 Conditional Uses

- A. Self-service car washes, provided a Development Plan is approved, pursuant to Section 10.02.07 of this Ordinance.
- B. Temporary or seasonal outdoor sales lots having a maximum operating duration of four (4) months, provided a Development Plan, including a plan for all signage, is approved pursuant to Section 10.02.07 of this Ordinance and all other permits are obtained.

### Section 17.04 Development Standards

#### 17.04.01 Minimum Lot Area

No minimum lot area is required; however, lot area shall be adequate to provide for the required parking and yard areas.

#### 17.04.02 Minimum Lot Width

100 feet of frontage on a publicly dedicated and improved street or highway.

#### 17.04.03 Minimum Front Yard Depth

Fifty (50) feet.

#### 17.04.04 Minimum Side Yard

- A. When abutting a non-residential zoning district:  
Twenty (20) feet for structures, ten (10) feet for paved areas.
- B. When abutting a residential zoning district:  
Forty (40) feet for structures, thirty-five (35) feet for paved areas.

#### 17.04.05 Minimum Rear Yard

- A. When abutting a non-residential zoning district:  
Thirty (30) feet for structures, ten (10) feet for paved areas.
- B. When abutting a residential zoning district:  
Fifty (50) feet for structures, thirty-five (35) feet for paved areas.

#### 17.04.06 Parking and Loading

Parking and loading requirements shall be as specified in Article XXVII.

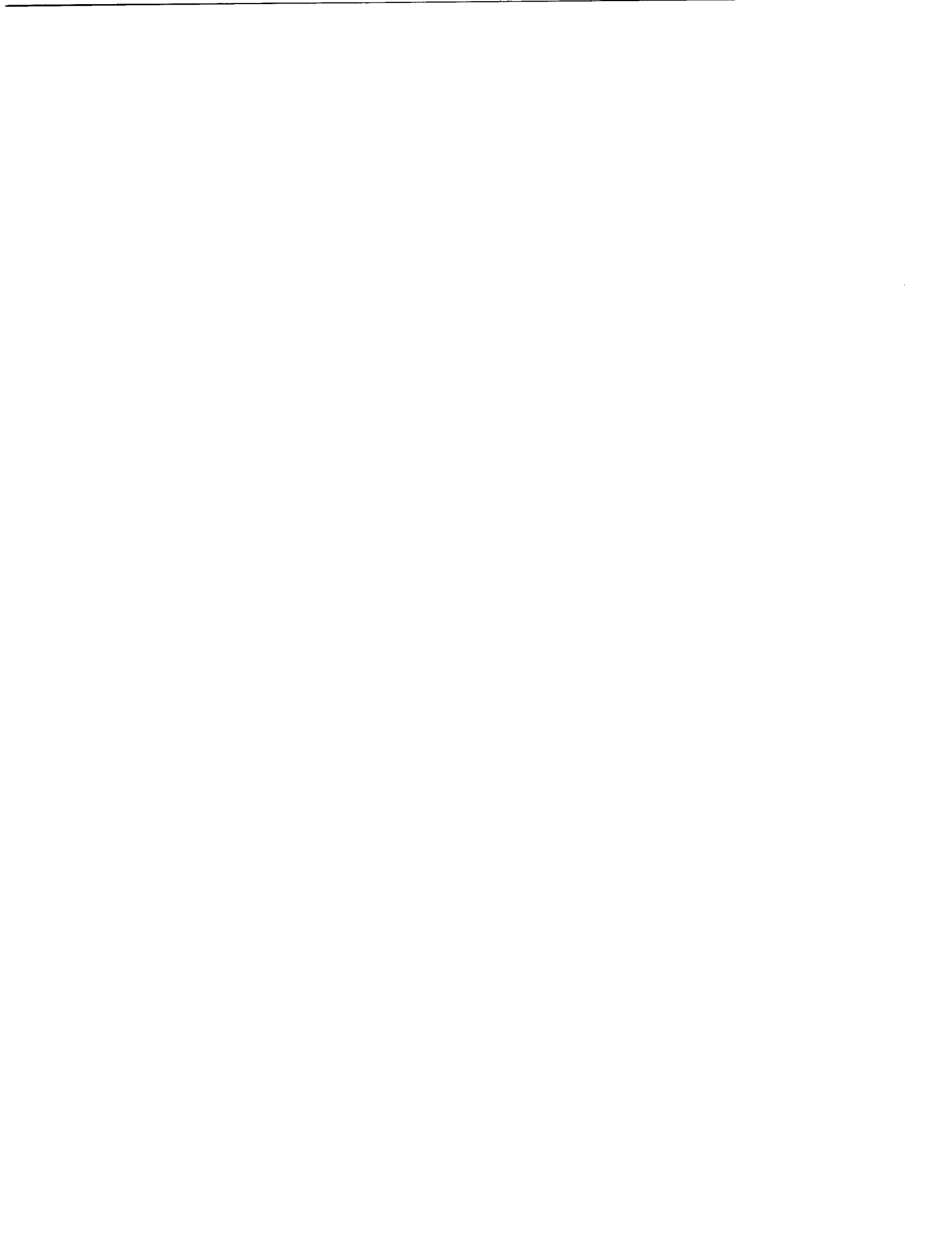
#### 17.04.07 Screening

If side or rear yards are adjacent to property in which single family residences are a permitted use, the screening of such yards shall be required. Such landscaping shall consist of

walls, fences, mounding, natural vegetation or a combination of these elements. .

17.04.08 Trash and Garbage Control

All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view.



**ARTICLE XVIII  
(DE) DOWNTOWN ENTERPRISE DISTRICT**

**Section 18.01 Purpose**

The purpose of the Downtown Enterprise district is to promote and foster the economic and physical revitalization of downtown Byesville. The standards and requirements of the DE District are based on the following principles:

- A. The downtown should contain a healthy mix of land uses. The marketplace - not regulations - should be the primary force driving the mix of downtown uses.
- B. The downtown should be particularly receptive to small local-based entrepreneurship and start-up businesses.
- C. Housing - and particularly owner-occupied housing - should be an integral component of the physical fabric of areas adjacent to and around the downtown.
- D. The maintenance and improvement of the downtown physical environment is important in promoting an active and vital business environment.
- E. Development standards and regulations should encourage the adaptive use of older structures.

**Section 18.02 Permitted Uses**

- A. Any use specified as a permitted use in Sections 17.02 A through D
- B. Hotels and Bed-and-Breakfast Establishment
- C. Community facilities such as governmental offices, post office, libraries, museums, private schools, public parks and similar uses.
- D. Churches and places of public worship
- E. Off-street parking areas
- F. Similar Uses, which conform to the purpose of the Downtown Enterprise District, as determined by the Planning and Zoning Commission in accordance with the provisions of Section 10.02.05 of this Ordinance.

**Section 18.03 Conditional Uses**

- A. Two or more family residences, provided the development standards of the AR District are met.
- B. One-family detached dwellings
- C. Uses with drive-through facilities, provided a Development Plan is prepared and approved by the Planning and Zoning Commission.
- D. Processing, assembly and/or packaging of products or materials, provided such operations are carried out totally within the building, such operations do not produce levels of noise or odors perceptible outside the building, and such use promotes the purpose of the DE District as stated in Section 18.01 above.

**Section 18.04 Development Standards**

18.04.01 Lot Area

No minimum lot area is required.

18.04.02 Lot Width

No minimum lot width is required.

18.04.03 Setbacks

The distance between any building or structure and the right-of-way line of any public street shall be not greater than that of the most proximate building on the same side of the street. No minimum side yard setback shall be required, unless the building or structure is located adjacent to the OVR District, in which case the setback shall be twenty (20) feet.

18.04.04 Maximum Building Size

Individual uses within the DE District shall have a usable floor area of not more than 4,000 square feet, unless the use is located in an existing building, in which case such restriction shall not apply.

18.04.05 Parking and Loading

Uses within the DE District shall be required to provide only 25% of the number of parking spaces required in Section 27.06 of this Ordinance, provided at least one (1) parking space is provided for each employee during any one business shift.

18.04.06 Manufactured / Modular Buildings

The use of manufactured and/or modular buildings for business purposes shall be prohibited.

18.04.07 Property Maintenance

No owner of a property or structure in the DE District shall by willful neglect, fail to provide sufficient and reasonable care, maintenance and upkeep to such property or structure. For the purposes of this Section, maintenance and upkeep shall include keeping exterior surfaces free from debris, garbage, noxious weeds, or free from hazardous objects or conditions such as holes, broken concrete, broken glass, and dead or dying trees or vegetation.

18.04.08 Trash and Garbage Control

All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view.

## **ARTICLE XIX**

### **(I) INDUSTRIAL DISTRICT**

#### **Section 19.01 Purpose**

The purpose of the Industrial District is to provide suitable areas for a range of industrial activities, while protecting the character of nearby residential and commercial areas. Permitted uses within the Industrial District must operate:

- A. primarily within enclosed structures.
- B. with minimal adverse environmental or economic impact on adjacent properties.
- C. free from noise, odor, dust, smoke, light, glare or vibration at levels in excess of the average level on adjacent streets and properties.
- D. without imposing unusual burdens upon utility or governmental services.

#### **Section 19.02 Permitted Uses**

- A. Manufacturing, compounding, processing, assembling, packaging, or treatment of goods, materials, and products, consistent with the purpose of the I District.
- B. Warehousing, distribution and related uses, including truck and transfer terminals.
- C. Administrative, professional and business offices associated with and incidental to another permitted use.
- D. Similar uses, as determined by the Planning and Zoning Commission in accordance with the provisions of Section 10.02.05 of this Ordinance, and the purpose of the Industrial District.

#### **Section 19.03 Conditional Uses**

Conditional uses within the I District shall consist of those industrial uses which meet some but not all of the standards of Section 19.01 above, including, but not limited to:

- A. Motor vehicle storage and salvage yards, provided those uses meet applicable state requirements related to fencing and other standards, and a Development Plan is approved pursuant to Section 10.02.07 of this Ordinance.
- B. Contractor equipment and storage yards, provided adequate fencing and screening devices are installed.
- C. Quarrying or mining operations, provided that all County, State and federal regulations are met and licenses are obtained and a Development Plan is approved pursuant to Section 10.02.07 of this



- Ordinance. The Planning and Zoning Commission may impose additional requirements as may be reasonable and appropriate.
- D. Plants for the mixing and/or processing of concrete and/or asphalt.

**Section 19.04 Minimum Development Standards**

19.04.01 Minimum Lot Area

No minimum lot size is required; however, all principal and subordinate uses and structures, including parking and paved areas, shall be located not less than 200 feet from any district where residences are a permitted use, and not less than fifty (50) feet from any other zoning district.

19.04.02 Minimum Lot Width

No minimum lot width is required; however, all lots shall abut a publicly dedicated and improved street and shall have adequate width to provide for yard spaces and parking areas.

19.04.03 Side Yards

When abutting a non-residential zoning district, fifty (50) feet for structures, twenty (20) feet for paved areas:  
When abutting a residential zoning district, 150 feet for structures, fifty (50) feet for paved areas, subject to the requirements of Section 19.04.01 above.

19.04.04 Front Yard Depth

Any new structure or parking area must be located not less than fifty (50) feet from the right-of-way of the road or highway on which the use has frontage.

19.04.05 Minimum Rear Yard Depth

Minimum rear yard depth shall be required so as to meet the spacing requirements of Section 19.04.01 of this Ordinance.

19.04.06 Height

No building shall exceed a height of forty-five (45) feet.

19.04.07 Screening

If side or rear yards are adjacent to property in which single family residences are a permitted use, the screening of such yards shall be required. Such landscaping shall consist of walls, fences, mounding, natural vegetation or a combination of these elements.

19.04.08 Trash and Garbage Control

All trash and garbage shall be stored in container systems which are located and enclosed so as to effectively screen them from view.

## ARTICLE XX

### (SU) SPECIAL USE DISTRICT

#### Section 20.01 Purpose

“Special use”, as used throughout this Ordinance, means facilities classified as main and accessory uses listed in Section 20.02. The SU District and regulations are established in order to achieve the following purposes:

- A. To regulate the location and standards for development of such facilities so as to ensure their proper functioning in consideration of traffic, access, and general compatibility
- B. To protect listed facilities and uses from the encroachment of particular incompatible uses and to promote their compatibility with adjoining residential uses

#### Section 20.02 Permitted Uses

Buildings and land within the SU District shall be utilized only for the uses set forth in the following schedule:

##### MAIN BUILDINGS / USES

Civic: Art galleries, libraries, museums, and similar places for public assembly; memorials, monuments, fraternal organizations and private clubs.

Educational: Primary and secondary public, private or parochial schools, nursery schools.

Health Care: General and specialized hospital and clinics, convalescent centers, institutions for care of children or senior citizens.

Senior Citizen Housing: Retirement centers, extended care facilities.

Religious: Churches and places of worship.

Infrastructure: Buildings housing equipment and offices related to the provision of essential services, but not including actual lines and smaller structures such as pump stations.

##### ACCESSORY BUILDINGS / USES

Maintenance facilities. Bulletin boards and signs as hereinafter regulated.

Parking areas, playgrounds, signs.

Parking areas, signs.

Parking areas, signs.

Maintenance facilities and parking areas, signs.

Parking areas, signs.

**MAIN BUILDINGS / USES**

**ACCESSORY BUILDINGS / USES**

Communication: Cellular telephone towers; commercial radio and television antennas and towers.

Commercial Recreational Facilities: Private parks, golf courses, swim clubs, recreation fields and playgrounds, and similar facilities, not including such facilities developed for private use by occupants or residents of the premises.

Cemeteries:

Signage: Billboards

Parking areas, clubhouses, administrative and maintenance structures, signs.

Signs, maintenance facilities, mausoleums

**Section 20.03 Development Standards**

The area or parcel of land for a special use shall not be less than that required to adequately provide for the main building, accessory buildings and uses, off-street parking, set backs, yards and open spaces to accommodate the facility and maintain the character of the neighborhood. The suitability of the area or parcel of land for a permitted special use shall be approved by the Planning and Zoning Commission through review of the Development Plan, pursuant to Section 20.05.

**Section 20.04 Yard Regulations**

A. Front Yards

The front yard setback shall be not less than the largest required front yard setback for any adjacent zoning district.

B. Side and Rear Yards

The yards for each building or structure in the SU District shall be not less than the criteria set forth in the following schedule when adjacent to any district where residences are a permitted use.

**MAIN BUILDING / USES**

**MINIMUM SIDE/REAR YARDS (FT)**

Civic: Nonassembly buildings 50  
assembly buildings 75

Educational: Public, private and parochial schools 75

Health Care: Buildings 50

Senior Citizen Housing: 50

<u>Religious:</u> Churches and planned public worship	75
<u>Infrastructure:</u> Buildings	50
<u>Communication:</u> Antennas or antenna towers	100% of the height
<u>Commercial Recreation:Facilities</u> Buildings	75
<u>Signs:</u> Billboards	75

If the proposed special use is located adjacent to a non-residential zoning district, then the side and rear yards shall be not less than the largest yard required in that district. If side or rear yards are adjacent to a district where single-family residential uses are a permitted use, the screening or buffering of such yards shall be required. The identification, description and location of the screening or buffering methods used to meet this requirement shall be specified in the Development Plan.

**Section 20.05 Approval By Planning and Zoning Commission**

In addition to the material required for the application for a zoning amendment, as specified in Section 5.03 of this Ordinance, a Development Plan shall be submitted for land proposed to be zoned into the SU District. Such Development Plan shall include all the information and material required pursuant to Section 10.02.07 of this Ordinance. The construction of all buildings and development of the site within the SU District shall be in conformity and compliance with the approved Development Plan.

**Section 20.06 Action by Village Council**

In approving the redistricting of land into the SU District, Village Council may specify appropriate conditions and safeguards applying to the specific proposed facility.

**ARTICLE XXI**

***RESERVED FOR FUTURE USE***

## **ARTICLE XXII**

### **(FP) FLOOD PLAIN OVERLAY DISTRICT**

#### **Section 22.01 Purpose**

It is the purpose of this Article to promote the public health, safety and general welfare and to minimize losses resulting from periodic inundation of flood waters in the Village of Byesville by:

- A. restricting or prohibiting uses which are dangerous to health, safety or property in times of flooding, or cause excessive increases in flood heights or velocities;
- B. requiring that uses vulnerable to floods be protected from flood damage at time of initial construction;
- C. controlling the filling, grading, dredging and other development which may increase flood damage; and,
- D. controlling the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

#### **Section 22.02 Finding of Fact**

Particular areas of the Village of Byesville are subject to periodic inundation which may result in loss of life and property, hazards to health and safety, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by:

- A. The cumulative effect of obstructions in flood plains, causing increased flood heights and velocities.
- B. The occupancy of flood hazard areas by uses which are not adequately elevated or protected from flood damage.

#### **Section 22.03 Definitions**

- A. "Area of special flood hazard" means the land in the flood plain within a community subject to one percent (1%) or greater chance of flooding in any given year.
- B. "Base flood" means the flood having a one percent (1%) chance of being equalled or exceeded in any given year. The base flood may also be referred to as the 100 year flood.
- C. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining,

dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

- D. "Federal Emergency Management Agency (FEMA)" means the agency with the overall responsibility for administering the National Flood Insurance Program.
- E. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - 1. The overflow of inland or tidal waters and/or
  - 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- F. "Flood Insurance Rate Map (FIRM)" means an official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards within the Village of Byesville
- G. "Floodway" means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- H. "Floodway Fringe" means all areas within the designated area of special flood hazard which are outside the Floodway.
- I. "Start of construction" means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the state of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.
- J. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
- K. "Substantial improvement" means any repair, reconstruction, addition, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include any project or improvement made to a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

## **Section 22.04 Scope and Application**

### **22.04.01 Applicable Lands**

This Article shall apply to all lands within the Village boundaries shown as within the 100 year flood boundary (Zone A), as identified by the Federal Emergency



Management Agency on the Flood Boundary and  
Floodway Map Numbers and dates as follows:

39059CO113	February 17, 1989
39059CO176	February 17, 1989

Any subsequent revisions and/or amendments to the above maps are hereby adopted by reference and declared to be a part of this Ordinance.

22.04.02 Overlay District Designation

The areas of floodway or floodway fringe identified on the Official Zoning District Map shall be shown as an overlay district. This overlay district shall be designated as the Flood Plain Overlay (FP) District.

Those areas within the Flood Plain Overlay District designated as Floodway on the FEMA, flood boundary as referenced above, shall be subject to all the requirements of the Flood Plain Overlay District, as well as those specified sections that address the Floodway.

The Flood Plain Overlay (FP) District shall be superimposed over the Official Zoning District Map. The underlying zoning district, as shown on the Official Zoning District Map, shall hereafter be called the base district. Uses and minimum requirements shall be determined by the base district; however, when the requirements governing the Flood Plain Overlay District are more restrictive than those of the base district, the provisions of this Article shall supersede those of the base district.

22.04.03 Interpretation of Boundaries

The delineation of areas within the FP District as shown on the Official Zoning Map are for basic reference only. When disagreement exists as to the boundaries of the Flood Plain Overlay District, those boundaries shall be interpreted to be the boundaries of the floodplain and floodway fringe as shown on the Flood Insurance Rate Maps and Flood Boundary and Floodway Maps referenced above in Section 22.04.01.

22.04.04 Warning and Disclaimer of Responsibility

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the Flood Plain Overlay District boundaries or land uses permitted within such district will

be free from flooding or flood damage. This Ordinance shall not create liability on the part of the Village or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

22.04.05 Compliance

Unless specifically exempted as stated in Section 22.05.02, no structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this Article and other applicable ordinances of the Village.

22.04.06 Abrogation

This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another conflict or overlap, whichever imposes the stringent restrictions shall prevail.

**Section 22.05 Administration**

22.05.01 Flood Plain Development Permit

A Flood Plain Development Permit shall be obtained before the start of construction or development of land in the Flood Plain Overlay District. This permit shall be in addition to the zoning permit required in Section 4.01 of this Ordinance. Application for a Flood Plain Development Permit may be made concurrently with the application for a zoning permit.

22.05.02 Contents of Application for Flood Plain Development Permit

The application for a Flood Plain Development Permit shall contain the following information:

- A. Plans in duplicate drawn to scale showing the location, dimensions, and elevations of the area in question, existing and proposed structures, fill, storage of materials, and drainage facilities.
- B. Elevation in relation to mean sea level of the lowest floor, including basement of all proposed structures.
- C. Elevation in relation to mean sea level to which any proposed structure will be floodproofed.
- D. Certification by a registered professional engineer or architect that the floodproofing methods for any structure

meet the flood proofing criteria in Section 22.06 of this Article.

- E. Description of the extent to which any watercourse will be altered or relocated as result of proposed development.
- F. Base flood elevation data as provided by the Federal Emergency Management Agency. If such base flood elevation data is not available from that source, the applicant shall provide base flood elevation data available from another federal or state agency. Where such base flood elevation data is not available from any other source, the applicant shall provide such data in accordance with a hydrologic and hydraulic engineering analysis, performed and certified by a professional engineer, who shall demonstrate that the technical methods used correctly reflect currently accepted technical concepts.
- G. Other information as requested by the Zoning Inspector to determine conformance with this Ordinance.
- H. Application fee, as established by separate ordinance.

**22.05.03 Exemption From Filing a Flood Plain Development Permit**

An application for a Flood Plain Development Permit shall not be required for maintenance work such as roofing, painting, basement sealing, or for small development activities (except for grading and filling) valued at less than \$1,000.00.

**Section 22.06 Development Standards**

In addition to the requirements for development in base district, land located in Flood Plain Overlay District shall be subject to the following requirements and standards:

**22.06.01 Residential Construction**

- A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a level not less than two (2) feet above the base flood elevation. If fill is used to elevate the structure, it shall, whenever practical, extend laterally fifteen (15) feet beyond the limits of any structure.
- B. In addition, all new construction or substantial improvement shall be anchored to prevent flotation, collapse, or lateral movement of the structure, and shall be constructed using materials, utility equipment, methods and practices that minimize flood damage.

- C. All residential buildings or structures shall have one (1) traffic lane or drive to the main door of the structure elevated to a level of at least one (1) foot above the base flood elevation.

#### 22.06.02 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to a level not less than two (2) feet above the base flood elevation; or, together with attendant utility and sanitary facilities, shall;

- A. be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to an elevation of not less than one (1) foot above the base flood elevation;
- B. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- C. be certified by a registered professional engineer or architect that the standards of this Section are satisfied.

#### 22.06.03 Additional Structural Requirements

In addition, all new construction and/or substantial improvements shall;

- A. be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. be constructed with materials resistant to flood damage;
- C. be constructed by methods and practices that minimize flood damage; and,
- D. be constructed with electrical, heating, ventilation, plumbing, and other service facilities that are designed and/or located so as to prevent water from entering within the components of the flooding conditions.

All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize or eliminate flood damage. For water and sewer systems, such requirements shall include, but not be limited to, provisions to minimize or eliminate infiltration of flood waters into the system, and discharges from the system into flood waters.

**Section 22.07 Encroachments**

22.07.01 Areas With Floodways

The floodway generally consists of the stream channel and immediate overbank area which carry the deep and fast moving flood waters. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential.

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited, unless hydrologic and hydraulic analysis, performed at the owner's expense in accordance with standard engineering practices, demonstrates to the satisfaction of the Planning and Zoning Commission that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

22.07.02 Areas Without Floodways

In all areas within the Flood Plain Overlay District, where no Floodway has been delineated, the following provisions shall apply:

- A. New construction, substantial improvements, or other development (including grading and filling) shall be permitted only if it is demonstrated, to the satisfaction of the Planning and Zoning Board, that the cumulative effect of the proposed development, when combined with any existing or anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

**Section 22.08 Variances and Appeals**

22.08.01 Criteria and Conditions

The Planning and Zoning Commission shall hear and decide appeals and requests for variances from the requirements of this Article, in conformance with the criteria, standards, and procedures stated in Article VI of this Ordinance. In deciding appeals and variances from the requirements of this Article, the Planning and Zoning Commission shall consider the following items in addition to the criteria stated in Article VI.

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.

- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- E. The compatibility of the proposed use with existing and anticipated development
- F. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- G. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water and the effects of wave action, if applicable, expected at the site.
- H. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**ARTICLE XXIII  
(ARD) ARCHITECTURAL REVIEW DISTRICT (OVERLAY)**

**Section 23.01 Purpose**

The Village of Byesville contains areas with rich historic, architectural and /or environmental character. The preservation of these areas is directly linked to the economic, social, historical and cultural health and well-being of the community. The purpose of the Architectural Review District is to protect and preserve these assets and to prevent intrusions and alterations within the established district(s) which would be incompatible with their established character. It is further the intent of this district to encourage infill development that respects the context of the existing built environment, to promote local design qualities, to stabilize and enhance property values, and to reduce conflicts between new construction and existing development.

The Architectural Review District is an Overlay District. This means that the standards of this Article are requirements which must be met in addition to the established requirements and standards of the base district over which the Architectural Review District is placed.

**Section 23.02 Definitions**

As used in this Article, the following words shall be defined as follows:

- A. "Alteration" means any action to change, modify, reconstruct, remove or demolish any exterior features of an existing structure or site within the Architectural Review District. For the purpose of this item, ordinary maintenance to correct any deterioration, decay or damage to a structure or premises and to restore the structure as nearly as practicable, is excluded from the definition of "alteration", provided such work does not involve a change in type of building materials.
- B. "Architectural Character" means the style, design, and general arrangement of the exterior of a building or other structure including the type and texture of the light fixtures, signs and other appurtenant fixtures. In the case of an outdoor advertising sign, "exterior features" means the style, material, size and location of the sign.
- C. "Applicant" means any person, persons, association, organization, partnership, unit of government, public body or corporation who applies for a Certificate of Appropriateness in order to undertake an environmental change within the District.
- D. "Board" means the Architectural Review Board of the Village of Byesville
- E. "Certificate of Appropriateness" means a certificate authorizing any environmental change within the Architectural Review District.
- F. "District" means the Architectural Review District.
- G. "Environmental Change" means the construction, alteration, demolition or removal of any property subject to the provisions of this Article.

- H. "Preserve" or "preservation" means the process, including maintenance, of treating an existing building to arrest or slow future deterioration, stabilize the structure and provide structural safety without changing or adversely affecting the character or appearance of the structure.
- I. "Owner" shall mean the owner of record, and the term shall include the plural as well as the singular.

**Section 23.03 District Boundaries**

The Architectural Review District shall consist of areas to be identified and designated by Village Council under separate ordinance. The designation of such areas shall be made by the Council after obtaining a recommendation from Planning and Zoning Commission, and holding a public hearing. Prior to that hearing, notification shall be given to all property-owners and residents of record within the proposed district, pursuant to the same requirements for zoning amendment.

**Section 23.04 Architectural Review Board**

23.04.01 Establishment and Corporation

The Architectural Review Board is hereby established consisting of five (5) residents of the Village appointed by Mayor for terms of three (3) years. At least one (1) member of the Board shall also be a member of the Planning and Zoning Commission, and at least one (1) member of the Board shall also be a member of Village Council. At least two (2) members of the Board shall be residents or property-owners within the Architectural Review District. In appointing members, the Mayor shall make good faith effort to appoint persons with training in the fields of architecture, design, historic preservation, planning or related disciplines.

23.04.02 Procedures

The Architectural Review Board shall hold not less than four (4) meetings per year.

23.04.03 Quorum

Three (3) members of the Board shall constitute a quorum. The concurring vote of three (3) members of the Board shall be necessary to pass any motion or action.

23.04.04 Procedures

The Architectural Review Board shall adopt its own other procedural rules and guidelines.



### **Section 23.05 Certificate of Appropriateness Required**

No environmental change shall be made to any property within the Architectural Review District until a Certificate of Appropriateness has been properly applied for, and issued by the Board. No zoning permit, building permit, or certificate of zoning compliance shall be issued by the Zoning Inspector for any construction, reconstruction, alteration or demolition of any structure now or here-after in the Architectural Review District or subject to the process as specified in this Ordinance, unless a Certificate of Appropriateness has been authorized by the Board.

### **Section 23.06 Procedure for Certificate of Appropriateness**

- A. The application for a Certificate of Appropriateness shall be made on such forms as prescribed by the Zoning Inspector, along with such plans, drawings, specifications and other materials as may be needed by the Board to make a determination. At a minimum, such information shall include the following:
  - 1. A site plan showing building outlines, dimensions and landscaping.
  - 2. A complete description of the proposed environmental change.
- B. Applications for a Certificate of Appropriateness shall be filed with the Zoning Inspector at least ten (10) days prior to the meeting of the Architectural Review District Review Board.
- C. The Board shall determine whether the proposed environmental change will be appropriate to the preservation of the historic, environmental, or architectural character of the Architectural Review District, pursuant to the criteria specified in Sections 23.07 and 23.08 below.
- D. In determining the appropriateness of a specific environmental change, the Board may conduct a public hearing on the project and/or solicit input from consultants to the Village.
- E. If no action is taken by the Board within ninety (90) days from the date of application, the Certificate of Appropriateness shall be issued as a matter of law.

### **Section 23.07 Criteria of Evaluation of Application for Certificate of Design Appropriateness**

In considering the appropriateness of any proposed environmental change, including landscaping or exterior signage, the Architectural Review Board shall consider the following:

- A. The visual and functional components of the building and its site, including but not limited to, building height, massing and proportion, roof shape and slope, landscape design and plant materials, lighting, vehicular and pedestrian circulation, and signage.
- B. The distinguishing original qualities or character of a historic building,

structure, site and/or its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural or environmental features should be avoided when possible.

- C. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance inconsistent or inappropriate to the original integrity of the building shall be discouraged.
- D. Whereas changes which may have taken place in the course of time with evidence of the history and development of a building, structure or site and its environment, if these changes are deemed to have acquired significance, then this significance shall be recognized and respected.
- E. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
- F. Significant architectural features which have deteriorated shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or placement of architectural features should be based on accurate duplication of the feature, and if possible, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or availability of different architectural elements from other buildings or structures.
- G. The surface cleaning of masonry structures shall be undertaken with methods designed to minimize damage to historic building materials. Sandblasting and other cleaning methods that will damage the historic building materials should be avoided.
- H. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
- I. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original structure would be unimpaired. Additions to the least significant and least visible of historic properties should be given priority over other designs

### **Section 23.08 Design Criteria**

- A. Existing Structures and Premises.

Reconstruction or rehabilitation within the Architectural Review District shall conform to the distinguishing, original exterior qualities or character of the structure, its site, and its surrounding environment.

- B. New Construction.

The design of new structures and of additions to existing structures, including new site improvements, shall take into account the architectural style, general design, arrangement, texture, material and color of other structures and properties within the district.

C. Materials.

All new structures and all reconstruction or remodeling of existing structures within the Architectural Review District shall utilize natural traditional exterior materials such as brick, stone, masonry and/or wood. The use of contemporary materials, such as aluminum and other similar metals, fiberglass and plastic for exterior surfaces on architecturally significant structures shall be prohibited unless the use of such materials would contribute to the enhancement of existing traditional materials and the overall integrity and longevity of the structure.

E. Color.

Traditional colors and combinations of those colors that are both identified with the origin or the era in which the structure of property was originally built, shall be used for exteriors for all new structures to be built, and reconstruction, remodeling and exterior maintenance of existing structures within the Architectural Review District.

F. Signs.

All signs within the Architectural Review District shall conform to color and material standards of this Section, be of such size, scale, style and design that reflects the era during which the structure was built. Sign size and shape shall also respond to the existing proportions of period structures, and signs shall not be permitted to cover, "blank-out" or close existing window and doorway openings or otherwise hide important architectural features.

G. Architectural Review Standards (ARS)

For commercial properties within the older downtown area of the Village, the Architectural Review Board shall also consider the consistency of the proposed project with the Village's Architectural Review Standards (ARS) adopted by Village Council in Resolution 95-22 on October 11, 1995.

### **Section 23.09 Demolition of Structures**

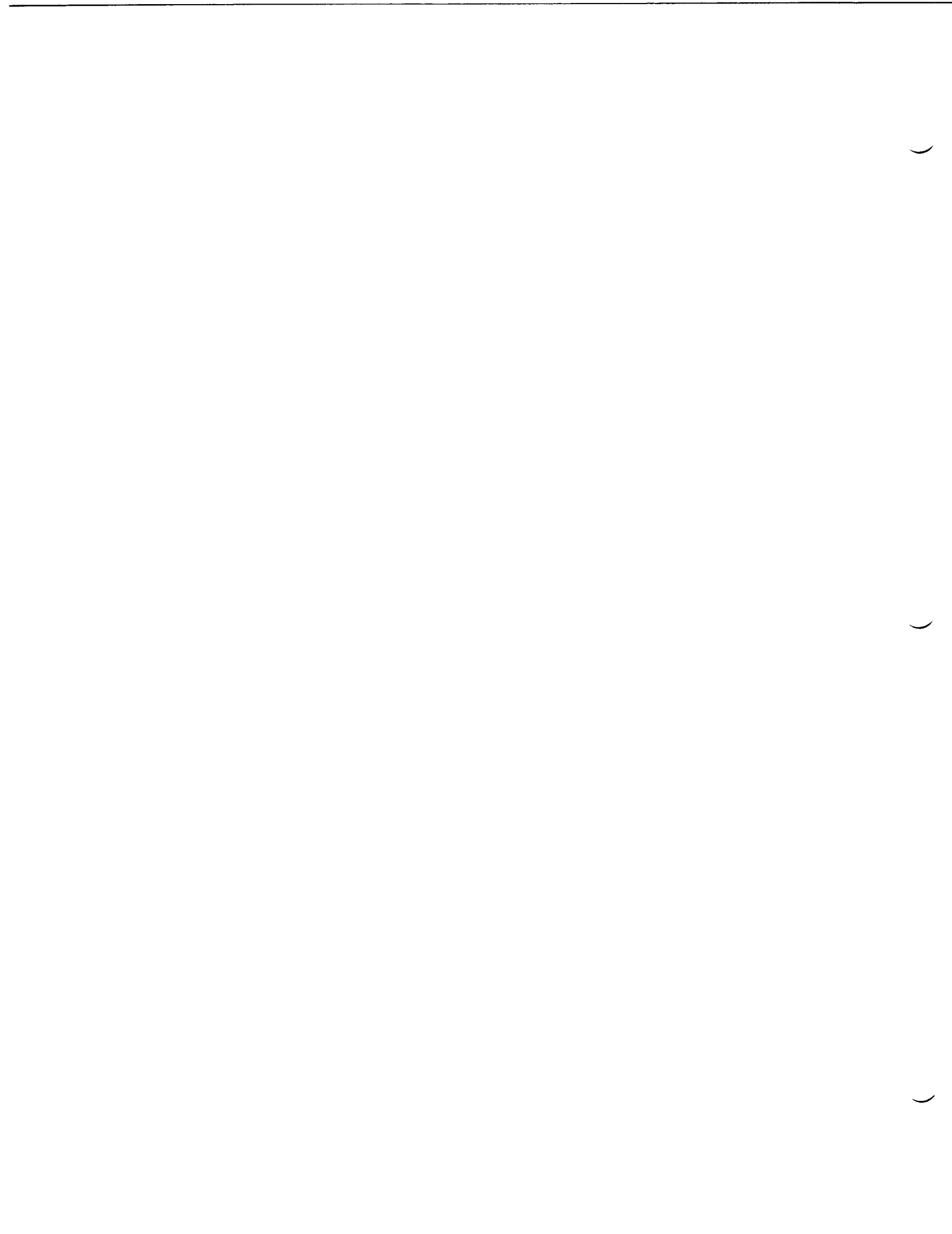
In cases where an applicant applies for a Certificate of Appropriateness to demolish a structure within the Architectural Review District, the Architectural Review Board shall grant the demolition and issue a Certificate of Appropriateness when at least one of the following conditions exist:

- A. The structure contains no features of architectural and historic significance to the character of the individual precinct within which it is located.
- B. There exists no reasonable economic use for the structure as it exists or as it might be restored, and that there exists no feasible and prudent alternative to demolition.
- C. Deterioration has progressed to the point where it is not economically feasible to restore the structure.

**ARTICLE XXX**

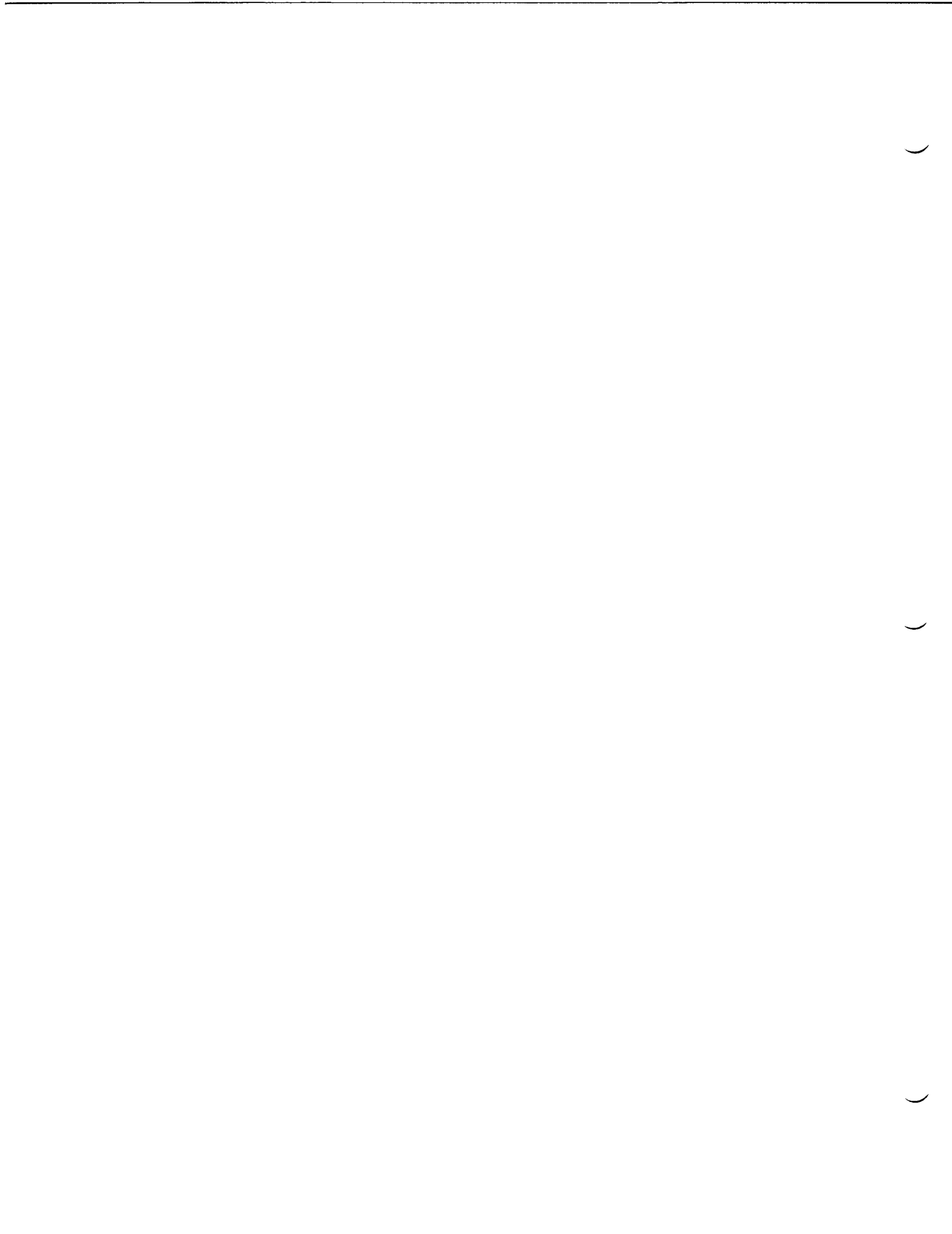
***RESERVED FOR FUTURE USE***

**PART FOUR**  
**ADDITIONAL ZONING REQUIREMENTS**



**ARTICLE XXIV**

***RESERVED FOR FUTURE USE***





### **Section 23.10 Maintenance**

Nothing in this Article shall be construed to prevent ordinary maintenance or repair of any property within the Architectural Review District, provided such work involves no change in material, design, texture, color or exterior appearance; nor shall anything in this Article be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which in the view of the Zoning Inspector is required for the public safety because of an unsafe, insecure or dangerous condition.

### **Section 23.11 Appeals**

Any applicant aggrieved by any decision of the Board may appeal the decision to the Village Council. Such appeal shall be taken by the filing of a written statement, setting forth the grounds for the appeal, with the Mayor within thirty (30) days of the decision of the Board. The Mayor may reverse, remand, or modify such decision and shall state the reasons therefore.

### **Section 23.12 Penalty**

Whoever constructs, reconstructs, alters, or modifies any exterior architectural or environmental feature now or hereafter within the Architectural Review District in violation of this Article, shall be deemed to be guilty of a misdemeanor, subject to the penalties specified in Section 7.02 of this Ordinance.



## ARTICLE XXV

### GENERAL DEVELOPMENT STANDARDS

#### Section 25.01 Lot Width

A. Frontage Required

No building, structure, or improvement shall be constructed or altered unless its lot fronts on a publicly dedicated and improved street or thoroughfare within the Village.

B. Lot Width

Lot width shall be measured along the minimum building setback line for the district within which such lot is located.

#### Section 25.02 Front Yards

A. Front Yard Requirements

Front yards shall be maintained in a neat and orderly state and kept free of trash and debris. In all districts, driveways may be located in front yards.

B. Front Yard Measurements

Front yard depth shall be measured from the right-of-way line of the street or highway to the building line.

C. Open Porches

An open, uncovered porch or paved terrace may not project into the required front yard for distance of greater than ten (10) feet.

D. Architectural Features

Cornices, canopies, eaves, pilasters, sills or other architectural features may project into a front yard no more than three (3) feet.

E. Corner Lots

Lots fronting on more than one street shall provide the required front yard on both streets. Setbacks for one (1) of the other two (2) sides of the corner lot shall be as required for the rear yard in the district where the lot is located.

#### Section 25.03 Side Yards

A. Measurement

Side yard width shall be measured from the nearest side lot line to the building line.

B. Open Porches

In a residential district, an open, uncovered porch or paved terrace may project into a required side yard, if a minimum of five (5) feet is maintained to any adjoining lot line.

C. Architectural Features

Cornices, canopies, eaves, pilasters, sills or other architectural features may project into a side yard no more than three (3) feet with minimum of two (2) feet maintained to any adjoining lot line.

**Section 25.04 Rear Yards**

A. Measurement

Rear yard depth shall be measured from the rear lot line to the building line. Where a lot abuts a service street or alley, the rear yard shall be measured from the right-of-way line of the existing street or alley.

B. Accessory Uses or Structures

Accessory uses or structures may be allowed in a rear yard, subject to requirements of Section 26.01.

C. Open Porches

In a residential district, an open, uncovered porch or paved terrace may project into a required rear yard, if a minimum distance of fifteen (15) feet is maintained to any rear lot line.

D. Architectural Features

Cornices, canopies, eaves, pilasters, sills or other architectural features may project into a rear yard no more than three (3) feet with a minimum of two (2) feet maintained to any adjoining lot line.

**Section 25.05 Height**

Height regulations specified in the various zoning districts shall not apply to chimneys, tanks, cupolas, silos, domes, spires, or similar structures.

## ARTICLE XXVI

### ADDITIONAL RESIDENTIAL DISTRICT STANDARDS

#### Section 26.01 Accessory Buildings and/or Structures

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

Such accessory structures are subject to the following additional requirements:

- A. An accessory use or structure shall not exceed eighteen (18) feet in height.
- B. An unattached accessory structure shall be located to the side or rear of the principal structure, within any side or rear yard. Such accessory structure shall be constructed not closer to the side lot line than the side yard requirement of the district where it is located, and not less than ten (10) feet from the rear lot line.
- C. The total area of all accessory uses or structures shall not exceed 720 square feet, except for swimming pools which shall be exempted from these area requirements.

#### Section 26.02 Private Swimming Pools

A "private swimming pool" means a body of water of artificial construction, used for swimming or recreational bathing, which is over twenty-four inches (24") in depth at any point and has more than 150 square feet of area on the water surface when filled to capacity, and includes the sides and bottom of such pool and the equipment and appurtenances thereof. No swimming pool shall be allowed in any residential district unless such pool meets the requirements of Chapter 1331 of the codified ordinances of the Village of Byesville. A zoning permit shall be required for the construction or installation of any private swimming pool. The owner of the property, or his agent, shall certify that the pool will be constructed, installed and maintained in conformance with the above requirements.

#### Section 26.03 Residential Fences and/or Hedges

No fence, hedge, wall or planting shall be erected on any lot in such a manner so as to obscure the vision of motorists approaching a street intersection, within a twenty-five (25) feet clear sight distance along either street approaching said intersection. No person shall erect or maintain any fence or wall charged with electrical current, nor shall any person erect or maintain any fence or wall having wire or metal prongs or spikes, or other cutting points or edges.

## **Section 26.04 Home Occupations**

Home occupations shall be considered as permitted or conditional uses as specified in the respective zoning districts of this Ordinance. Any home occupation developed after the effective date of this Ordinance shall require a permit issued by the Village. In addition, all home occupations shall comply with the following standards:

- A. The use shall be clearly incidental and secondary to residential use of the dwelling and not more than twenty percent (20%) of dwelling unit floor area is devoted to the home occupation.
- B. The home occupation shall not generate greater vehicular traffic volume than is normal for a residential neighborhood.
- C. Not more than one (1) person, other than immediate family residing at the premises, shall be employed in such occupation.
- D. External indication of such home occupation shall be limited to one non-illuminated sign, not more than three (3) square foot in area.
- E. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the lot.
- F. No home occupation shall be conducted from any accessory building on the lot.

Generally, home occupations shall be regulated not by the specific activity performed, but rather by the presence of external impacts that may affect the residential character of the surrounding area. In particular, a home occupation shall consist primarily of rendering specific personal services. Examples would include a seamstress, member of the clergy, lawyer, engineer, architect, real estate consultant, accountant, artist, computer or telecommunications worker or private teacher. The home occupation shall be performed by the occupant of the premises.

## **Section 26.05 Dish-Type Satellite Signal Receiving Antennas**

The owner or occupant of any lot, premises, or parcel of land who desires to erect a dish-type satellite signal receiving antenna in excess of thirty-nine inches (39") in diameter shall apply to the Zoning Inspector for a permit. Satellite dish antennas thirty-nine inches (39") in diameter and smaller shall not require a permit for installation, and are exempt from these regulations. On such application for a permit, the owner or occupant shall certify that the following requirements are met:

- A Location of Satellite Dish
  - 1. All satellite dishes shall be constructed or erected to the rear of the premises.
  - 2. No satellite dish shall be erected within ten (10) feet from any lot line.

3. No satellite dish shall be erected on the roof of any residential building or structure.
4. No satellite dish shall be linked to receivers which are not located on the same lot or premises.
5. Landscaping should be provided, or the dish shall be located so as to effectively screen the dish from view of adjacent parcels.

**B. Size and Height**

The maximum diameter of any satellite dish shall not exceed twelve (12) feet. The maximum installed height of any satellite dish shall not exceed fifteen (15) feet above natural grade level.

**C. Satellite Dish Support Structures**

1. Only metal supports of galvanized construction, or equal thereto, shall be permitted.
2. Only a concrete base or caissons, depending on soil conditions, shall be permitted.
3. The installed satellite dish structure shall be capable of withstanding a wind force of up to eighty-five (85) miles per hour.
4. Any satellite dish must be grounded to an eight (8) foot grounding rod.

**26.06 Group Residential Facilities**

"Group residential facilities" shall be defined and classified in Article II of this Ordinance. A Class I Type B group residential facility, as defined in Article II, is permitted by right in any zoning district that permits single-family dwellings. A Class I Type A group residential facility shall be considered as a conditional use in the AR and CB Districts, subject to the standards below. A Class II Type A or Type B group residential facility shall be treated as a conditional use in the CB and I Districts subject to the standards below:

- A. The facility shall obtain all approvals and/or licenses as required by state and local laws.
- B. The facility shall provide 24-hour supervision by trained and qualified professional personnel.
- C. No exterior alterations of the structure shall be made which would be inconsistent with the residential character of the residential structures in the surrounding neighborhood.
- D. The facility shall comply with the district regulations applicable to other properties in the zoning district in which they are located.

- E. Such facilities shall be required to provide appropriate sleeping quarters without using normal living areas, such as living rooms, dining room or kitchen for sleeping.
- F. Such facilities shall meet all applicable local and/or state building, safety and fire safety requirements for the proposed use and level of occupancy.
- G. Such facilities shall be reasonably accessible, by virtue of location or transportation provided by the applicant, to medical, recreational and retail services, and employment opportunities.
- H. The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, including a structured procedure whereby their grievances may be filed and resolved.



## ARTICLE XXVII

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### Section 27.01 Purpose

The purpose of these requirements is to encourage the orderly development of parking areas within the Village and to promote the safety of residents and visitors by insuring the efficient handling of vehicular traffic.

#### Section 27.02 Provision for Parking and Loading Required

In all zoning districts, at the time any building, structure or use is changed, established, erected, developed, or is enlarged or increased in capacity, off-street parking and loading shall be provided in accordance with the provisions of this Article.

#### Section 27.03 General Specifications and Requirements

##### 27.03.01 Area and Dimensions - Parking Spaces

	<u>Minimum Width</u> <u>(Measured in Feet</u> <u>Parallel to Aisle)</u>	<u>Minimum</u> <u>Length</u> <u>(Feet)</u>	<u>Maneuvering Lane</u> <u>Width</u> <u>(Feet)</u>
Parallel Parking	9	23	12
30-53 Degree Angle Parking	13	20	15
54-74 Degree Angle Parking	10	20	20
75-90 Degree Angle Parking	10	20	20

##### 27.03.02 Area and Dimensions - Loading Spaces

Loading spaces shall conform to the following minimum requirements:

<u>Length</u>	<u>Width</u>	<u>Height Clearance</u>
30 Feet	12 Feet	15 Feet

##### 27.03.03 Access

All off-street parking and loading areas provided in accordance with this Section shall have direct access to a publicly dedicated and improved street or alley.

27.03.04 Surfacing

All off-street parking and loading areas, except for parking areas serving single-family residential uses, shall be properly graded, drained, marked and surfaced so as to provide a hard, durable and dustless surface.

27.03.05 Lighting

Any lighting used to illuminate any off-street parking or loading area shall be so arranged as to reflect light away from any adjoining premises in any zoning district where residences are a permitted use. In addition, such lighting shall be so arranged as to not interfere with traffic on any adjoining street or to be confused with any traffic control lighting.

27.03.06 Location of Parking and Loading Spaces

A five (5) foot clear zone shall be maintained between the street right-of-way line, and any vehicle. Parking areas shall be so designed and arranged as to not allow the protruding of any vehicle, or portion thereof, over the clear zone.

**Section 27.04 Parking in the Downtown Enterprise District**

The Downtown Enterprise (DE) District is characterized by higher development density, small lots, and minimal building setbacks. Historically, a significant portion of the parking needs of this area has been provided by on-street parking, an option that is typically not available for suburban-type locations. For this reason, special parking regulations are warranted.

For non-residential uses located within the DE District, only twenty-five percent (25%) of the required spaces as specified in Section 27.06 below must be provided, provided that in all cases, sufficient off-street spaces shall be provided for all employees of the establishment.

**Section 27.05 Parking Limitations in Residential Districts**

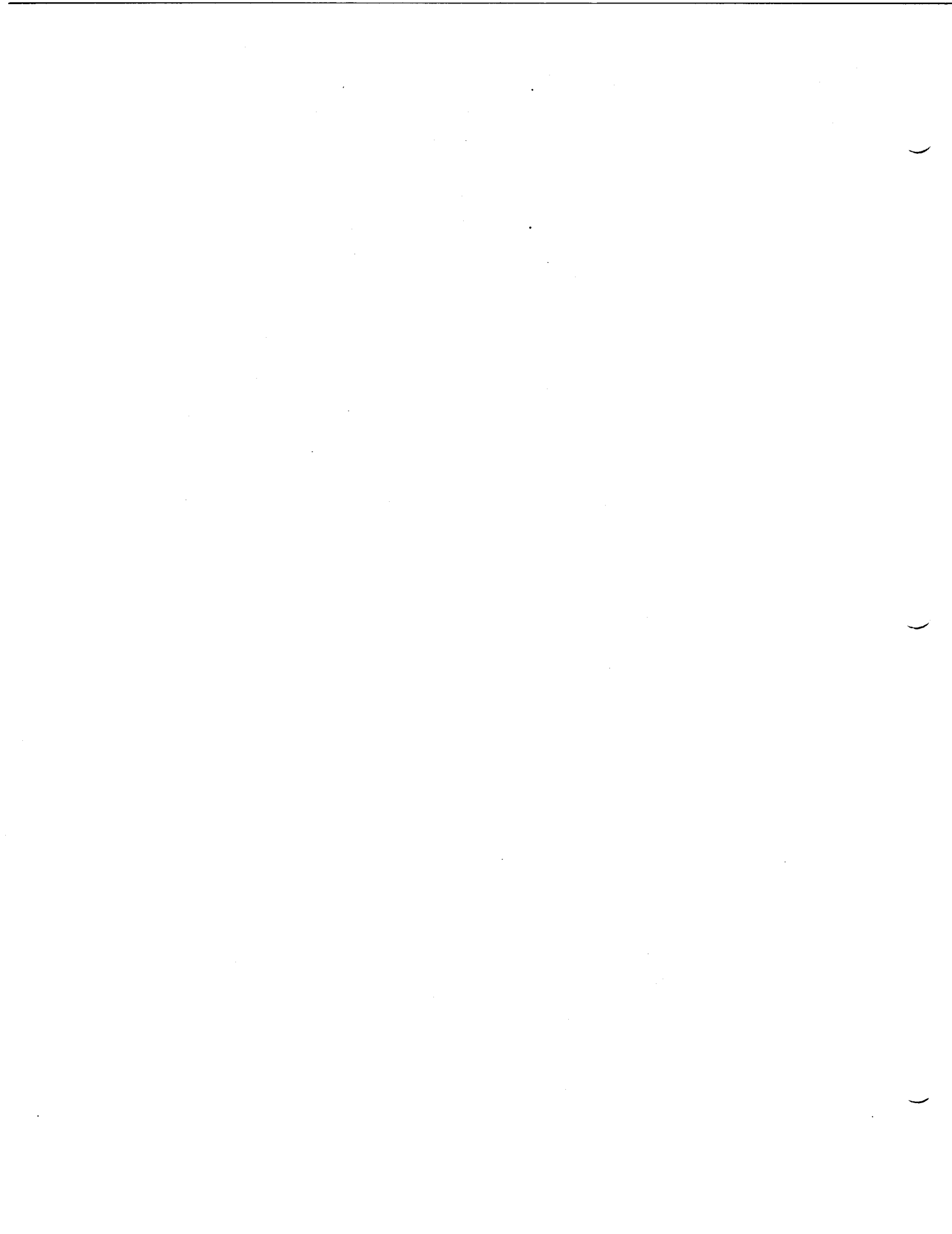
Semi-trucks and/or tractor trailers shall not be parked on streets or alleys within the SR or OVR Districts for a period of time exceeding seventy-two (72) hours.

Travel trailers, motor homes, pick-up campers, folding tent trailers, boats or boat trailers, utility trailers and similar equipment shall not be parked on streets or alleys in any district where residences are a permitted use, for a period of time exceeding seventy-two (72) hours. In addition, the storage of such equipment shall be subject to the following requirements:

- A. Such recreational equipment shall not be parked or stored within the street .  
right-of-way.
- B. Not more than two (2) pieces of recreational equipment shall be permitted to  
be stored outside on a parcel containing a single family or two-family  
dwelling. For the purpose of this Section, a boat stored on a boat trailer shall  
be deemed one piece of recreational equipment.
- C. Recreational equipment shall not be occupied or used for living, sleeping,  
housekeeping, storage or business purposes on a regular basis.

### **Section 27.06 Required Number of Off-Street Parking Spaces**

Parking spaces shall be provided according to the following schedule of  
uses. If a use consists of more than one component use (e.g., a school with a  
stadium) the required number of parking spaces shall be the sum of the required  
spaces for those component uses.



## SECTION 27.06 SCHEDULE OF REQUIRED OFF-STREET

### USE

### NUMBER OF REQUIRED SPACES

#### A. Residential

1. Single or multiple- family residences Two (2) per dwelling unit
2. Institutional housing, other residential uses One (1) per three (3) occupants plus two (2) for each main work shift

#### B. Commercial

1. Professional, administrative and business One (1) for each 400 S.F. of gross floor area.
2. Food, department, general merchandise, hardware, drugs, or other retail sales One (1) for each 200 S.F. of gross floor area
3. Eating or drinking establishments *without* drive-through facilities One(1) for each 100 S.F. of gross floor area
4. Eating or drinking establishments *with* drive-through facilities. One (1) for each 75 S.F. of gross floor area plus additional space in the drive-through lanes equal to twenty-five percent (25%) of the required number of parking spaces.
5. Personal services, including banks, savings and loans, and repair services *without* drive-through facilities. One (1) for each 200 S.F. of gross floor area.
6. Personal services, including banks, savings and loans, and similar services *with* drive-through facilities One (1) for each 200 S.F. of gross floor area. plus additional space in drive-through lanes equal to eighty percent (80%) of the required number of parking spaces.
7. Barber and beauty shops Two (2) for each work station
8. Gasoline and service stations, automobile service Two (2) for each service bay plus one (1) for each pump, plus one (1) for each employee during the main shift
9. Self-serve laundries One(1) for each three(3) washers.
10. Medical and dental offices, human clinics Four (4) for each doctor or dentist
11. Veterinary clinics, animal hospitals Three (3) for each doctor.
12. Hotels, bed-and-breakfast establishments One (1) for each sleeping room plus one (1) for each employee during the main shift
13. Funeral homes One (1) for each 400 S.F. of gross floor area.

# PARKING SPACES

## *USE*

## *NUMBER OF REQUIRED SPACES*

### **C. Industrial**

1. Any manufacturing, processing, packaging, warehousing, distribution or service industry

Two (2) for each three (3) employees during work shift having greatest number of employees, plus one (1) for each vehicle maintained on the premises.

### **D. Institutional**

1. Churches and places of public worship
2. Public or private elementary or secondary school
3. Business, trade, or technical school, college or university
4. Nursery School/Day Care
4. Libraries, museums, community centers and similar facilities
5. Civic, social and fraternal organizations
6. Hospitals, nursing facilities

One (1) for each four (4) seats in main sanctuary

Four (4) for each classroom, or one (1) for each in main auditorium, whichever is greater.

One (1) for each two (2) students and one (1) for each faculty member.

One (1) for each fifteen (15) students

One for each 400 S.F. of gross floor area

One (1) for each three (3) persons allowed in main meeting room at full capacity.

One (1) for each four (4) beds plus one (1) per employee on main shift.

### **E. Recreational**

1. Baseball, softball, football, soccer or similar organized sport playfield
2. Tennis, handball or racquetball courts
3. Bowling alleys
4. Theatres, stadiums, sports arenas, auditoriums or other assembly halls other than schools

Twenty (20) for each playfield, plus one for each six (6) seats in stands.

Three (3) for each court

Four (4) per lane, plus necessary spaces as required for auxiliary uses such as restaurants.

One (1) for each four (4) seats

## ARTICLE XXVIII

### SIGNS

#### Section 28.01 Purpose

The purpose of these regulations is to prevent signs from becoming a distraction or obstruction to the safe and efficient flow of pedestrian and vehicular traffic, to prevent signs from having an adverse impact on adjacent properties or uses, to encourage the development of signage systems that promote an active economic and business environment, and thereby protect the general health, safety, and welfare of the citizens of the Village of Byesville.

#### Section 28.02 Definitions

As used in this Article, the following words or phrases shall have the meanings herein:

- A. "Sign" means any device for visual communication which is designed, intended, or used to convey a message, advertise, inform or otherwise direct attention to a person, institution, organization, activity, business, place, object or product.
- B. Other Definitions
  - 1. "Banner" means a nonrigid cloth, plastic or canvas sign typically related to a special event or promotion. For the purposes of this Article, the term "banner" shall not include official flags of public entities, or civic, philanthropic, educational or religious organizations
  - 2. "Billboard" means an off-premises sign that is more than two-hundred (200) square feet in area.
  - 3. "Canopy" means a structure separate from, but associated by use with the principal building, which is supported independently by posts or columns, is open on all sides, and is intended only for shelter or ornamentation. A "canopy sign" is a sign that is attached to or a part of the roof of such a structure.
  - 4. "Changeable copy sign" means a sign which, in whole or in part, provides for periodic changes in the material or message composing the sign. This definition includes both electronically and manually changeable signs.
  - 5. "Directional sign" means any sign which indicates the direction or specific location of an institution, organization or business, which does not include advertising or any information regarding product lines or services offered
  - 6. "Flashing sign" means a sign or graphic which in any manner, as a whole or in part, physically changes in light intensity or gives the appearance of such change

7. "Freestanding sign" means a sign which is wholly independent of any building for support.
8. "Joint Identification sign" means a sign intended to provide the identity or name, for two or more uses within one building or on one property or the name of the building or its address for property occupied by two or more businesses
9. "Moving sign" means any sign, all or any part of which physically moves or is animated so as to give the appearance of movement. For the purposes of this Ordinance, a barber pole shall not be considered a moving sign.
10. "Off-premises sign" means any sign that identifies or provides information related to a good, service or event that is not located on the property where such sign is located.
11. "Permanent sign" means a sign intended to be erected or used, or in fact which is used for time period in excess of ninety (90) days.
12. "Portable sign" means a sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes and shall include
  - a. "Trailer sign" meaning a sign that is constructed on a chassis intended for the mounting of wheels, thereby permitting the sign to be moved
  - b. "Folding portable sign" meaning a sign constructed of wood or other durable material which can be folded or collapsed for ease of transport.
13. "Projecting sign" means a sign which extends outward perpendicular to the building face
14. "Temporary sign" means a sign intended to be used, or in fact used, for a time period of ninety (90) days or less.
15. "Vending machine sign" means a permanent sign installed by the manufacturer on a fuel pump, vending machine, or similar outdoor object.
16. "Wall sign" means a sign attached to a building face, with the exposed face in a plane parallel to the plane of the wall. Wall signs include painted murals, messages, graphics and other designs painted along with any letters or numerals mounted directly on buildings.
17. "Window sign" means a sign, graphic, poster, symbol or other identification which is physically affixed to or painted on the glass or other structural component of the window.

### **Section 28.03 Signs Excluded from Regulations**

The following signs are excluded from the regulations and requirements of this Article:



- A. Signs not exceeding two (2) square feet in area that are customarily associated with residential use and are not of a commercial nature, including address and/or name of occupants of the structure, signs on mailboxes or newspaper tubes, signs posted on property related to private parking, and signs warning against trespassing or danger from animals. Signs associated with home occupations shall not be excluded from these regulations.
- B. Signs erected by a governmental entity for a recognized public purpose and duly authorized by any law, statute or ordinance. Such signs include legal notices and traffic control or safety devices, provided such signs carry no supplementary advertising.
- C. Signs located on the inside of a structure or building, that are not designed or located so as to be typically visible from outside the building.
- D. Signs which are in the nature of cornerstones, commemorative tables and historic designations, provided such signs are less than nine (9) square feet in size and not illuminated.
- E. Signs clearly in the nature of decorations customarily associated with a national, local or religious holiday. Such signs shall be of any illumination or animation provided that a safety and/or visibility hazard is not clearly created.
- F. Temporary window signs which promote special business sales, promotions or occasions. No business shall display such signs for more than thirty (30) days per calendar year.
- G. Flags or insignias of any governmental entity when not displayed as an advertising device, or in connection with any commercial promotion.

#### **Section 28.04 Prohibited Signs**

Signs that are not specifically permitted in this Article shall be considered as prohibited. Without restricting or limiting the generality of the foregoing provisions, the following signs are specifically prohibited:

- A. Signs mounted on motor vehicles that are parked in a prominent location for the primary purpose of displaying the sign
- B. Banners, streamers, pennants and similar air-activated moving signs intended for permanent display
- C. Moving Signs, as defined in Section 28.02 (B)9
- D. Flashing or high intensity lights mounted on a sign
- E. Any sign that obstructs any part of a doorway, exit or fire escape.
- F. Any sign that resembles or is intended to resemble a traffic control device, or is located in such a manner so as to obscure or impact the effectiveness of such traffic control device or signal.

## **Section 28.05 Sign Permits and Administration**

### **A. Permit Required**

No permanent or temporary sign, except as exempted in Sections 28.03 or 28.06 of this Ordinance shall hereafter be erected, constructed or maintained within the Village of Byesville unless a permit for the same has been issued by the Zoning Inspector. Application for a permit to construct or erect a sign shall be made by the owner of the property upon which the sign is proposed, or his agent. An application for a permit to erect a sign shall contain, at a minimum, a drawing of the sign including its size, its location on the lot, and specific information regarding its construction.

### **B. Action on Sign Permit**

The Zoning Inspector shall issue a sign permit upon submittal of a completed application and payment of applicable fees if he/she determines that the provisions of this Ordinance have been met. If the application for a sign permit is denied, the applicant shall be given written notice of such denial, along with the reasons therefor.

### **D. Appeals**

Any decision made by the Zoning Inspector under the terms of this Article may be appealed to the Planning and Zoning Commission in the manner set forth in Article VI of this Ordinance.

## **Section 28.06 Signs Which Do Not Require a Permit**

The following signs may be erected without a permit; such signs, however, shall be subject to all other provisions of this Article:

- A.** Political signs or posters concerning candidates for elective office, public issues and similar matters to be decided by public election, to be displayed beginning no more than thirty (30) days prior to election and to be removed no later than one (1) week after such election, subject to penalty. Such signs shall not exceed twelve (12) square feet in area, shall not be illuminated, and shall not be located within a public right-of-way nor be affixed to any public utility pole or street tree. In addition such sign shall not be located in any manner so as to create a safety or visibility hazard. Signs that exceed the standards of this Section shall require a sign permit.
- B.** Signs that indicate the sale, development, rental or lease of a particular structure or land area, provided such sign does not exceed sixteen (16) square feet in area. One such sign be allowed per street front. Such signs shall not be located in a public right-of-way.
- C.** Credit card decals, store hour specifications, "open" or "closed" signs, or similar signs that do not exceed an aggregate area of two (2) square feet.
- D.** Signs, which are less than two (2) square feet in size and mounted or attached flat or parallel onto a building face of an administrative, business or professional office building, which denote the name and address of an occupant in a building where more than one tenant is located and which has individual and separate entries.

- E. A sign which advertises the sale of personal property, such as a garage, yard, porch or moving sale sign provided such sign, is located on the sale premises for a time period not greater than three (3) consecutive days, and is not to be located in a public right-of-way nor affixed to any public utility pole or street tree. Such signs shall not be located in such a manner so as to create a safety or visibility hazard.
- F. Temporary construction signs which display the identification of the construction project, including identification of the contractors, architects and other construction principals. Such construction sign shall be limited to one (1) per construction site, shall not exceed sixteen (16) square feet in area and shall be removed upon the completion of construction or the commencement of occupancy, whichever event occurs first. Such signs shall not be located within the public right-of-way.
- G. Signs promoting community events and programs which last for a time period of fourteen (14) days or less and which are sponsored by nonprofit, public, educational, religious and charitable organizations. All such signs shall be removed not later than three (3) days after the scheduled activity.
- H Signs determined by the Planning and Zoning Commission to be similar to those specified in A-G above

**Section 28.07 Temporary Signs**

Temporary signs shall be subject to the following general requirements:

- A. Not more than one (1) temporary sign shall be permitted on any individual property at one time.
- B. The date upon which a temporary sign is first displayed shall be legibly marked on the sign.
- C. Banners less than twenty (20) square feet in area are permitted, provided such signs are secured at each corner, point and/or end so as to prevent movement.
- D. Trailer signs as defined in Section 28.02 (B) 12a shall be permitted as temporary signs in the CB and I Districts, provided such signs shall not be displayed for a period exceeding two (2) months during any calendar year.
- E. Folding portable signs, as defined in Section 28.02 (B)12b. shall be permitted as temporary signs in the DE District, provided such signs are secured and/or anchored so as to prevent accidental collapse.

**Section 28.08 General Requirements - Permanent Signs**

Permanent signs shall be subject to the following requirements:

- A. Wall Signs  

Wall signs shall be permitted in the DE, CB, SU and I Districts and may be erected on any building wall or extension of a building wall which faces a street, parking lot or service drive, and such a sign may not extend beyond any building setback line. Wall signs shall be attached parallel to the building face

and extend outward perpendicular from the building face a maximum of twelve (12) inches

B. Canopy and/or Awning Signs

Canopy signs shall be permitted in the DE, CB, SU and I Districts and may be painted on an awning area or attached to a canopy or roof which projects beyond the building provided that no part of such sign may extend above the roof line, canopy or marquee. Canopy or marquee signs shall be a minimum of nine (9) feet above ground level.

C. Projecting Signs

Projecting signs shall be permitted in the DE and CB Districts provided such signs do not exceed twelve (12) square feet in size, are placed not less than nine (9) feet above the sidewalk or ground level, and project not more than six (6) feet outward from the building face

D. Freestanding Signs

Freestanding signs shall be permitted in the CB, SU and I Districts. Freestanding signs shall not exceed fifteen (15) feet in height. No portion of any freestanding sign shall be erected over the street right-of-way.

E. Off-Premises Signs

Off-premises signs as defined in Section 28.02 (B) 10 shall be considered as an accessory use in the CB and I Districts. Not more than one (1) off-premises sign with a sign face area not exceeding twenty (20) square feet is permitted on a single lot. Off-premises signs shall conform to all applicable yard, setback and height restrictions for structures in the zoning district where they are located.

Billboards, as defined in Section 28.02 (B)1, shall be considered as a special use, subject to the requirements of the Special Use (SU) District in Article XXI of this Ordinance. Such signs shall require specific approval of the Planning and Zoning Commission following the procedures outlined in Article XXI.

F. General Requirements

1. Illumination

Illuminated signs shall be permitted only in the DE, CB, I and SU Districts. Illumination shall be from a concealed or indirect light source and shall not flash, blink, fluctuate in intensity, travel, move or in any manner fail to provide constant illumination, and shall not create a hazard or visibility problem or interfere with or impair vehicular traffic. The level of illumination emitted from a sign shall not be of an intensity to constitute a demonstrable safety hazard to vehicular movement on any street. Illuminated signs shall be constructed and maintained so that the source of illumination is shielded or otherwise prevented from beaming directly onto adjacent properties or streets.

2. Pennants and/or Streamers

No permanent sign shall contain or consist of banners, pennants, ribbons, streamers, balloons or similar devices.

3. Construction

All signs and parts thereof, including any electrical wiring, shall be erected, constructed, and maintained so as to not constitute a safety hazard. The construction and installation of all signs shall be subject to inspection by the Village and/or the State of Ohio.

4. Location

No part of any sign shall be placed in, over, or extend onto any public right-of-way.

5. Permanent Subdivision Identification Signs

Such signs shall be limited to wall mounted or freestanding signs only, with placement on walls, columns or similar architectural or landscaped entrance features used to denote the entrance to the subdivision. Such sign shall be not more than five (5) feet in height and shall set back at least twenty (20) feet from the right-of-way of both streets.

6. Signs in SU District

Signs in the SU District shall reflect the standards for similar uses in other districts. The applicant shall submit a total signage plan for the proposed development as part of the Development Plan.

## **Section 28.09 Nonconforming Signs**

### **A Abandonment**

The continuance of an existing sign which does not meet the regulations and requirements of this Article shall be deemed a nonconforming sign which shall terminate by abandonment when any of the following conditions exist:

1. When the sign is associated with an abandoned use.
2. When the sign remains after the termination of a business. A business has ceased operations if it is closed to the public for at least ninety (90) consecutive days. Seasonal businesses are exempt from this requirement.
3. When the sign is not maintained or does not conform to the following:
  - a) All signs, together with all supports, braces, guys and anchors shall be kept in a proper state of repair.
  - b) Every sign and the immediately surrounding premises shall be maintained by the owner, or his agent, in a clean, sanitary and inoffensive condition, free from all obnoxious substances, rubbish and weeds.

Upon finding that the sign is abandoned, the right to maintain and use such sign shall terminate immediately.

**B. Relocation or Replacement**

A nonconforming sign shall not be structurally relocated or replaced unless it is brought into compliance with the provisions of this Section. Should any replacement or relocation occur without being brought into compliance, the sign shall be subject to removal.

**C. Maintenance**

A nonconforming sign shall be maintained or repaired in accordance with the following provisions:

1. The size and structural shape of the sign shall not be changed or altered. The copy may be changed provided that the change applies to the original use associated with the sign at the time the sign became nonconforming, and a permit is obtained. The copy area shall not be enlarged.
2. In case damage occurs to the sign to the extent that more than fifty percent (50%) of the replacement value is lost, the sign shall be removed within sixty (60) days.

**D. Inspection and Removal**

If any existing sign is found, upon inspection by the Zoning Inspector, to constitute a hazard to public safety, such sign shall be subject to immediate removal by order of the Zoning Inspector..

**Section 28.11 Variances**

Variances to this Article may be granted pursuant to the procedures and policies set forth in Article VI of this Ordinance.

**Section 28.12 Signs in the Architectural Review District**

Signage in any Architectural Review District established pursuant to the procedures in Article XXIII of this Ordinance shall be subject to the review of the Architectural review Board.

**Section 28.13 Penalties**

Any person, firm, corporation, partnership or association violating any provision of this Article or failing to obey any lawful order issued pursuant to its terms shall be subject to fines and penalties as specified in Section 7.02.04.

## **ARTICLE XXIX**

### **ADULT ENTERTAINMENT FACILITIES**

#### **Section 29.01 Purpose**

The purpose of this Article is to promote the public health, safety and welfare through the regulation of adult entertainment businesses. It is the intent of this Article to regulate businesses, as defined herein, in such a manner as to prevent the erosion of the character of the surrounding neighborhoods and to prohibit the establishment of such businesses within close proximity to existing adult entertainment businesses, residential areas, schools, churches, parks and playgrounds within the Village.

#### **Section 29.02 Definitions**

A. "Adult Entertainment Facility" means any establishment which is involved in one or more of the following listed categories.

1. "Adult Book Store" or "Adult Video Store" means a commercial establishment which as one of its principal business purposes offers for sale or rental, or for the purpose of display by coin or slug-operated, or motion picture machines, projectors, or other image-producing devices, or both, books, magazines, other periodicals, films, tapes and cassettes which are distinguished by their emphasis on "specified sexual activities" or "specified anatomical areas" as defined below.
2. "Adult Motion Picture" means a facility for the display of motion pictures which is regularly used or utilizes fifteen percent (15%) or more its total viewing time for presenting material distinguished or characterized by an emphasis to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.
3. "Adult Entertainment Business" means any establishment involved in the sale or display of services or products characterized by the exposure or presentation of "specified anatomical areas" or physical contact of live male or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.

B. "Specified Sexual Activities" means any of the following:

1. Human genitals in a state of sexual stimulation or arousal.
2. Acts, real or simulated, or human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or sadomasochistic sexual abuse.
3. Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

- C. "Specified Anatomical Areas" mean any of the following:
  - 1. Less than completely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.
  - 2. Human male genitals in a discernible turgid state.
- D. "Fine Art Gallery" means any display of art work which is individually crafted and signed by the artist or which is limited in edition to 1,000 or less.
- E. "Sexually explicit nudity" means the sexually oriented and explicit showing of nudity, including, but not limited to, close-up views, poses, or depiction in such position or manner which present or expose such nudity to prominent, focal, or obvious viewing attention.
- F. "Sadomasochistic sexual abuse" means actual or simulated flagellation, rape, torture, or other physical or sexual abuse, by or upon a person who is nude or partially denuded, or the condition of being fettered, bound for sexual gratification or abuse or represented in the context of a sexual relationship.
- G. "Visibly displayed" means the material is visible on a billboard viewing screen marquee, newsstand, display rack, window, show case, display case, or other similar display area that is visible from any part of the general public or otherwise, or that is visible from any part of the premises where a juvenile is or may be allowed, permitted, or invited, as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which juveniles, as part of the general public or otherwise, has unrestrained and reasonable anticipated access and presence.

**Section 29.03 Exceptions**

Nothing in this Article shall be construed to pertain to:

- A. The purchase, distribution, exhibition and/or loan of any work of art, book, magazine or other printed material or manuscript by an accredited museum, library, fine art gallery, school or museum of higher learning.
- B. The exhibition and/or performance of any play, drama tableau, or motion picture by any theater, museum, library, fine art gallery, school, or institution of higher learning either supported by public appropriation or which is an accredited institution supported by private funds.

**Section 29.04 Location**

Adult Entertainment Facilities are to be considered a conditional use in the CB District, and are additionally subject to the following conditions:

- A. No adult entertainment facility shall be established within 1,000 feet of any residence or district where residences are a permitted use.
- B. No adult entertainment facility shall be established within a radius of 1,000 feet of any school, library, or teaching facility, whether public or private, when such school, library, or teaching facility is attended by persons under 18 years of age.



- C. No adult entertainment facility shall be established within a radius of 1,000 feet of any park or recreational facility attended by persons under 18 years of age.
- D. No adult entertainment facility shall be established within a radius of 1,000 feet of any church, synagogue, or permanently established place of religious services attended by persons under 18 years of age.
- E. No adult entertainment facility shall be established within a radius of 1,000 feet of any other adult entertainment facility.
- F. No advertisements, displays or other promotional materials displaying specified sexual activities or specified anatomical areas shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public areas.
- G. All building openings, entries, windows, etc. for adult entertainment uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street.
- H. No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned from public or semi-public area.

