

ARTICLE 1	<u>TABLE OF CONTENTS</u>
ARTICLE 2	<u>INTENT AND PURPOSE</u>
ARTICLE 3	<u>CONSTRUCTION OF LANGUAGE AND DEFINITIONS</u> Section 3.01 Construction of Language Section 3.02 Definitions
ARTICLE 4	<u>ZONING DISTRICTS AND MAPS</u> Section 4.01 Districts Section 4.02 District Boundaries Section 4.03 Uncertainty of Boundary Location Section 4.04 Zoning Upon Annexation
ARTICLE 5	<u>R-1AA, R-1A, R-1B, ONE FAMILY RESIDENTIAL DISTRICTS</u> Section 5.01 Purpose and Intent Section 5.02 Permitted Principal Uses Section 5.03 Accessory Uses Section 5.04 Conditional Uses Section 5.05 Yard Requirements Section 5.06 Building Height Regulations Section 5.07 Accessory Parking Section 5.08 Signs Section 5.09 Transient Rental Regulations
ARTICLE 6	<u>R-2 TWO FAMILY RESIDENTIAL DISTRICT</u> Section 6.01 Purpose and Intent Section 6.02 Permitted Principal Uses Section 6.03 Accessory Uses Section 6.04 Conditional Uses Section 6.05 Yard Requirements Section 6.06 Building Height Regulations Section 6.07 Accessory Parking Section 6.08 Signs Section 6.09 Transient Rental Regulations
ARTICLE 7	<u>R-3 MULTI-FAMILY RESIDENTIAL DISTRICT</u> Section 7.01 Purpose and Intent Section 7.02 Permitted Principal Uses Section 7.03 Accessory Uses Section 7.04 Conditional Uses Section 7.05 Yard Requirements

Section 7.06 Building Height Regulations
Section 7.07 Accessory Parking
Section 7.08 Signs
Section 7.09 Transient Rental Regulations
Section 7.10 Schedule of Yard and Lot Requirements

ARTICLE 8

O-1 OFFICE BUILDING DISTRICT

Section 8.01 Purpose and Intent
Section 8.02 Permitted Principal Uses
Section 8.03 Accessory Uses
Section 8.04 Conditional Uses
Section 8.05 Yard Requirements
Section 8.06 Building Height Regulations
Section 8.07 Accessory Parking
Section 8.08 Off-Street Loading
Section 8.09 Signs
Section 8.10 Landscaping
Section 8.11 Screening
Section 8.12 Lot Coverage

ARTICLE 9

B-1 HIGHWAY BUSINESS DISTRICT

Section 9.01 Purpose and Intent
Section 9.02 Permitted Principal Uses
Section 9.03 Accessory Uses
Section 9.04 Conditional Uses
Section 9.05 Yard Requirements
Section 9.06 Building Height Regulations
Section 9.07 Accessory Parking
Section 9.08 Off-Street Loading
Section 9.09 Signs
Section 9.10 Screening

ARTICLE 10

B-2 CONVENIENCE SHOPPING DISTRICT

Section 10.01 Purpose and Intent
Section 10.02 Permitted Principal Uses
Section 10.03 Accessory Uses
Section 10.04 Yard Requirements
Section 10.05 Building Height Requirements
Section 10.06 Accessory Parking
Section 10.07 Off-Street Loading
Section 10.08 Signs
Section 10.09 Screening

ARTICLE 11

B-3 NEIGHBORHOOD BUSINESS DISTRICT

Section 11.01 Purpose and Intent

Section 11.02 Permitted Principal Uses

Section 11.03 Accessory Uses

Section 11.04 Yard Requirements

Section 11.05 Building Height Regulations

Section 11.06 Accessory Parking

Section 11.07 Off-Street Loading

Section 11.08 Signs

Section 11.09 Screening

ARTICLE 12

B-4 CENTRAL BUSINESS DISTRICT

Section 12.01 Purpose and Intent

Section 12.02 Permitted Principal Uses

Section 12.03 Accessory Uses

Section 12.04 Yard Requirements

Section 12.05 Building Height Regulations

Section 12.06 Accessory Parking

Section 12.07 Off-Street Loading

Section 12.08 Signs

Section 12.09 Screening

ARTICLE 13

WO, WP WELL FIELD PROTECTION DISTRICTS

Section 13.01 Purpose and Intent

Section 13.02 Definitions

Section 13.03 Determination of Applicability

Section 13.04 WO Wellhead Operation District

Section 13.05 WP Wellfield Protection Overlay District

ARTICLE 14

OLD VILLAGE DISTRICT

Section 14.01 General

Section 14.02 Designation of District

Section 14.03 Permitted Principal Uses

Section 14.04 Accessory Uses

Section 14.05 Conditional Uses

Section 14.06 Non-Conforming Building

Section 14.07 Yard Requirements

Section 14.08 Parking Requirements

Section 14.09 Off-Street Loading

Section 14.10 Signs

Section 14.11 Standards

Section 14.12 Exclusions and Controls Not Appropriate
Section 14.13 Village Review Board
Section 14.14 Application for Old Village District Permit and Information Required
Section 14.15 Review Procedure
Section 14.16 Permit Required
Section 14.17 Appeals Procedure
Section 14.18 Special Procedure for Demolition Applications
Section 14.19 Review of Requests for A Variance
Appendix A-1 Guidelines for the Old Village District

ARTICLE 15

FLOOD DAMAGE PREVENTION

Section 15.01 General Provisions
Section 15.02 Definitions
Section 15.03 Administration
Section 15.04 Use and Development Standards for Flood Hazard Reduction
Section 15.05 Appeal and Variances
Section 15.06 Enforcement

ARTICLE 16

A-1 AGRICULTURAL DISTRICT

Section 16.01 Purpose and Intent
Section 16.02 Permitted Principal Uses
Section 16.03 Accessory Uses
Section 16.04 Conditional Uses
Section 16.05 Yard and Lot Requirements
Section 16.06 Building Height Regulations
Section 16.07 Accessory Parking
Section 16.08 Signs

ARTICLE 17

PLANNED UNIT DEVELOPMENT (PUD) DISTRICTS

Section 17.01 Purposes and Intent
Section 17.02 Mandatory PUD Applicability
Section 17.03 Voluntary PUD Applicability
Section 17.04 Types of Planned Unit Development Districts
Section 17.05 General Provisions Governing Planned Unit Developments
Section 17.06 Approval Procedures for Planned Unit Development (PUD) Zoning Classification
Section 17.07 Approval Procedures for Specific Site Plan
Section 17.08 Planned Unit Development Obligations and Binding and Enforceable Conditions

Section 17.09 Modifications to PUD Permitted Uses
Section 17.10 Similarity of Uses and Conditional Uses
Section 17.11 Modifications to Approved Specific Site Plans
Section 17.12 PD-1 Planned Residential Development Districts
Section 17.13 PD-2 Planned Business Development Districts
Section 17.14 PD-3 Planned Industrial Development Districts
Section 17.15 PD-4 Planned Mixed-Use Development Districts
Section 17.16 PD-5 Planned Public and Private Buildings and Grounds Districts

ARTICLE 18

GENERAL PROVISIONS

Section 18.01 General Regulations
Section 18.02 Yard Required for Corner and Through Lots
Section 18.03 Reserved
Section 18.04 Lots Adjoining Alleys
Section 18.05A Accessory Buildings
Section 18.05B Swimming Pools
Section 15.05C Temporary Storage Units
Section 18.06 Fences and Walls
Section 18.07 Removal of Soil, Sand, or Other Material
Section 18.08 Essential Services
Section 18.09 External Effects
Section 18.10 Outdoor Storage and Waste Disposal
Section 18.11 Projections into Required Yards
Section 18.12 Exceptions to Height Limitations
Section 18.13 Temporary Uses
Section 18.14 Major Street Setbacks
Section 18.15 Off-Street Loading Regulations
Section 18.16 Off-Street Parking Regulations
Section 18.17 Screening
Section 18.18 Reserved
Section 18.19 Septic Tanks or Wells
Section 18.20 Permitted Signs
Section 18.20A Permitted Signs (General)
Section 18.20B Permitted Signs (Old Village District)
Section 18.21 Non-Conformities
Section 18.22 Trailers, Commercial Semitrailers and Trucks
Section 18.23 Drive-In Service Establishments
Section 18.24 Barriers to Encroachment
Section 18.25 Reserved
Section 18.26 Recreational Vehicles
Section 18.30 Adult Entertainment Facilities
Section 18.31 Light and Glare
Section 18.40 Personal Wireless Service Sites

ARTICLE 19

ENFORCEMENT AND PENALTIES

- Section 19.01 Zoning Permits Required
- Section 19.02 Contents of Application for Zoning Permit
- Section 19.03 Submission for Thoroughfare Plan Review
- Section 19.04 Approval of Zoning Permit/Zoning Compliance Certificate
- Section 19.05 Expiration of Zoning Permit/Zoning Compliance Certificate
- Section 19.06 Certificate of Health Officer
- Section 19.07 Application for Zoning Permit/Zoning Compliance Certificate
- Section 19.08 Failure to Obtain Zoning Permit/Zoning Compliance Certificate
- Section 19.09 Record of Zoning Permits/Certificates of Zoning Compliance
- Section 19.10 Complaints Regarding Violations
- Section 19.11 Other Action
- Section 19.12 Penalties
- Section 19.13 Affected Parties
- Section 19.14 Violation, Nuisance Per Se: Abatement
- Section 19.15 Schedule of Fees, Charges, and Expenses
- Section 19.16 Waiver

ARTICLE 20

ADMINISTRATION

- Section 20.01 Office of Community Development Administrator Created
- Section 20.02 Duties of Community Development Administrator
- Section 20.03 Planning Board Created
- Section 20.04 Duties of Planning Board
- Section 20.05 Proceedings of Planning Board
- Section 20.06 Board of Zoning Appeals Created
- Section 20.07 Duties of the Board of Zoning Appeals
- Section 20.08 Proceedings of the Board of Zoning Appeals
- Section 20.09 Hearings of the Board of Zoning Appeals
- Section 20.10 Action by the Board of Zoning Appeals
- Section 20.11 Duties of Community Development Administrator, Board of Zoning Appeals, Legislative Authority and Courts on Matters of Appeal
- Section 20.12 Procedures and Requirements for Administrative Reviews
 - Section 20.12.1 Administrative Review
 - Section 20.12.2 Stay of Proceedings
- Section 20.13 Procedures and Requirements for Variances
 - Section 20.13.1 Procedure for Consideration of Petitions for Variance
 - Section 20.13.2 Application and Standards for Variance
 - Section 20.13.3 Supplementary Conditions and Safeguards
- Section 20.14 Procedures and Requirements for Approval of Conditional Use Permits
 - Section 20.14.1 General

Section 20.14.2 Contents of Application for Conditional Use Permit
Section 20.14.3 General Standards Applicable to All Conditional Uses
Section 20.14.4 Supplemental Safeguards and Conditions
Section 20.14.5 Expiration of Conditional Use Permit
Section 20.15 Determination of Similar Uses
Section 20.16 Determination of District Boundary Location
Section 20.17 Amendment Limitation

ARTICLE 21

AMENDMENT

Section 21.01 Right of Petition-Referral to Planning Board
Section 21.02 Contents of Application
Section 21.03 Reviews by Officials and Agencies
Section 21.04 Council Action on Recommendation
Section 21.05 Scheduling Public Hearing by Council
Section 21.06 Notice of Property Owners
Section 21.07 Amendment Limitation
Section 21.08 Annexation
Section 21.09 Fee

ARTICLE 22

VALIDITY AND SEVERABILITY

ARTICLE 23

INTERPRETATION AND CONFLICT

ARTICLE 24

REPEAL OF CONFLICTING ORDINANCES

ARTICLE 25

EFFECTIVE DATE

ARTICLE 2

INTENT AND PURPOSE

The City's Zoning Code is based on a Comprehensive Plan, the purpose of which is to lessen the congestion on the public streets, to reduce undue hazards due to flooding, and to safeguard and promote public health, safety, and general welfare. This Comprehensive Plan has been formulated with due consideration among other things, to the character of each district of the City and its peculiar suitability for uses to the conservation of property values; to the general trend and character of building and population development; to the prevention of undue concentration of population; to the advancement of social and economic stability; and to the facilitation of adequate provision of public transportation, streets, highways, sewers, water mains, schools, recreation areas and other public facilities.

ARTICLE 3

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

3.01

CONSTRUCTION OF LANGUAGE

For the purposes of this Zoning Code, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual; the present tense includes the future tense, the singular includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed" or "arranged to be used or occupied"; the word "building" includes the word "structure," and the word "dwelling" includes the word "residence"; the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

Terms not herein defined shall have the meaning customarily assigned to them.

3.02

DEFINITIONS

Accessory Use or Building: A use or building on the same lot width and of a nature customarily incident or subordinate to those of the main use or building. For yard setback and maximum allowable lot coverage purposes only, a private in-ground swimming pool shall be considered an accessory building or structure.

All temporary and/or manufactured carports shall be considered detached accessory buildings, even if attached or anchored to a main structure.

Accessory Dwelling Unit: A second dwelling unit subordinate to the principal dwelling that shares ownership and utility connections with the principal unit on a single-family zoned lot.

Adult Entertainment Facility: A facility having a significant portion of its function as adult entertainment which includes the following listed categories:

Adult Book/Video Store: An establishment which deals in books, magazines or other periodicals, or video tapes of which at least ten percent, as measured by publicly accessible display area, are distinguished, or characterized by an emphasis on depictions or descriptions relating to specified sexual activities or specified anatomical areas, as defined below, or an establishment having an area devoted primarily to the sale or display of such materials.

Adult Entertainment Theater: A facility used to a substantial extent for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities, or specified anatomical areas as herein defined for the observation by patrons therein.

Adult Entertainment Business: Any establishment involved in the sale of services or products characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons, the exposure or presentation of specified anatomical areas or physical contact of live males or females, and characterized by including but not limited to photography, dancing, stripping, reading, massage, male or female impersonation, and similar functions which utilize activities as specified below.

Specified Sexual Activities:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio; and
- (c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

Specified Anatomical Areas:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernable turgid state even if completely and opaquely covered.

Agriculture: See "Farm" definition below.

Alley: Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Alteration: Any change, addition, or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

Antenna (Dish): A dish-shaped antenna used for receiving communication signals from satellites.

Apartment: A suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single household.

Apartment Hotel: A building designed to contain both dwelling units and individual guest rooms or suites of rooms, which building may include accessory uses such as a cigar store, coffee shop, etc., when such uses are accessible only from the lobby.

Auto Service Station: A place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises, which includes the sale of minor accessories and the servicing of and general repair and engine rebuilding of automobiles but does not include storage of inoperable vehicles.

Auto Repair Station: A place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding, or reconditioning of motor vehicles; collision service, such as body frame, or fender straightening and repair; overall painting and under-coating of automobiles.

Basement: The portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, unless otherwise provided by this Code.

Block: A parcel of land bound on all sides by a street or streets.

Board of Zoning Appeals: The Board of Zoning Appeals of Bellbrook, Ohio, which Board also serves as the Property Review Commission.

Boarding House/Rooming House: A building, other than a hotel, where for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) sleeping rooms. A rooming house or a furnished-room house shall be deemed a Boarding House for the purposes of this Ordinance.

Brewpub: An establishment primarily engaged in the retail sale of prepared food for consumption, which includes the brewing of beer as an accessory use. The brewing operation processes the ingredients to make beer and ale by mashing,

cooking, and fermenting. The brewing operation does not include the production of any other alcoholic beverage.

- (a) A brewpub shall not produce more than four thousand (4,000) barrels of beer or ale per year.
- (b) No brewing equipment or storage is permitted on the exterior of the building.

Building: Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind.

Building Height: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

Building Line: A line formed by the face of the building, and for the purposes of this Ordinance, the Building Line is the same as a Front Setback Line.

Carport:

(a) **Temporary:** A building with a rigid roof comprised of metal, wood, or fiberglass, open on two (2) or more sides for the purpose of storing vehicles and RVs. All temporary freestanding carports and/or manufactured carports shall be considered detached accessory buildings, even if attached or anchored to a main building. No tarpaulins or colored plastic covers are permitted to cover a vehicle housed in a temporary carport.

(b) **Permanent:** A carport may be built as a permanent addition to a residence and formed by extension of a main building, comprised of the same building materials, and having the same characteristics as the main building.

Carry-Out: A place of business where beverages and prepared food are sold for consumption off the premises.

Channel: A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

Clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals.

Club: An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

Commercial Vehicles: Any vehicle licensed by the State of Ohio as a commercial vehicle or used for a commercial purpose.

(a) **Commercial Semi-Trailer:** Any commercial vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle, also defined as a vehicle having wheels only at the rear, the front resting on a tractor or towing vehicle.

(b) **Commercial Tractor:** Every motor vehicle having motive power designed or used for drawing other vehicles and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of such other vehicles or the load thereon, or both.

(c) **Commercial Trailer:** Any commercial vehicle designed or used for carrying persons or property wholly on its structure and for being drawn by a motor vehicle.

(d) **Commercial Truck:** Any automotive vehicle designed to carry loads, and which exceeds ten thousand pounds (10,000 lbs.) in weight unloaded.

Conditional Use: A conditional use is a use permitted only after review of an application by the Board of Zoning Appeals, such review being necessary because the provisions of this Ordinance covering conditions, precedent, or subsequent, are not precise enough to all applications without interpretation, and such review is required by the Ordinance. Conditional use does not require "undue hardship" to be allowable. The conditional uses that are found in this Ordinance appear as "special approval" on recommendation by the Planning Board and review by the Board of Zoning Appeals. These land uses could not be logically allocated to one (1) zone or another, or the effects of such uses could not be foreseen as of a given time.

Conditional Use Permit: This is a permit issued by the Board of Zoning Appeals to allow certain specific developments that would not otherwise be allowed in that

particular zoning district where the land is located. These permits are issued only after the applicant has followed the procedures as stated in this Ordinance. Development under a Conditional Use Permit differs from a zoning change in that it is much more specific. The applicant submits plans and, if approved, the applicant must follow those plans exactly or re-apply for a permit before deviating from that plan.

Convalescent or Nursing Home: An establishment which specializes in providing necessary services to those unable to care for themselves.

Council: The City Council of Bellbrook, Ohio.

Deck: An open platform projecting from a wall of a building, surrounding a pool or free-standing, which is supported by structural pillars or posts at grade or by the principal building structure itself. Free-standing decks shall be considered accessory buildings for setback purposes only.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

District: A portion of the incorporated area of the City within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Drive-In: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle, or within a building or structure on the same premises and devoted to the same purpose as the drive-in service.

Dwelling Unit: A building, or a portion thereof, designed for occupancy of one (1) family for residential purposes and having cooking facilities.

Dwelling, One-Family: A building designed exclusively for and occupied exclusively by one (1) family.

Dwelling, Two-Family: A building designed exclusively for occupancy by two (2) families living independently of each other.

Dwelling, Multiple-Family: A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

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

Encroachment Lines: Lines marking the limits of the floodway and the limit of encroachment of fill into the floodplain.

Erected: The term “erected” includes built, constructed, altered, reconstructed, moved upon, or any physical operations on a premises, which are required for the construction. Excavation, fill, drainage, and the like, shall be considered a part of erection.

Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems, collection, communication, supply, or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare.

Excavation: Any breaking of ground, except common household gardening and ground care.

Farm: All the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, Manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five (5) acres or more in area; provided, further, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries; but establishments keeping fur-bearing animals, or operate riding or boarding stables, commercial dog kennels, noncommercial stone quarries or gravel or sand pits, shall not be considered farm hereunder unless combined with bona fide farm operations on the same continuous tract of land of not less than twenty (20) acres. No farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption by persons residing on the premises.

Fence: Any structure other than part of a building which encloses or partially encloses any premises.

Filling: The depositing or dumping of any matter onto or into the ground, except common household gardening and ground care.

Flood Control: The construction of dikes, river embankments, channels, or dams for protection from floods.

Flood Plain: A channel and the areas adjoining a channel which may be flooded.

Flood Profile: A graph, chart, or longitudinal plot along a stream or river of maximum water surface elevations of a flood.

Flood Proofing: A combination of structural and nonstructural additions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, and contents of buildings. Walls must be water-tight and structural components must be able to resist hydrostatic and hydrodynamic loads and effects of buoyancy.

Floodway Fringe: The part of the regulatory Flood Plain which is outside the floodway. One (1) boundary of the Floodway Fringe is the Encroachment Line, and the other boundary is the Landward Boundary of the Regional Flood.

Floor Area: For the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the interior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches, except basement areas designed and used for dwelling or business purposes.

Floor Area Gross: The sum of the gross horizontal areas of all the several floors of a building or buildings, including interior balconies and mezzanines. All horizontal measurements are to be made between the exterior faces of walls including the walls of roofed porches having more than one (1) wall. The gross floor area of a building shall include the floor area of accessory buildings, on the same lot, measured the same way.

Floor Area: (for the purpose of computing parking): The area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandising, such as hallways,

stairways, and elevator shafts, or for utilities or sanitary facilities, shall be excluded from this computation of "Floor Area" for the purpose of computing parking. Measurements of useable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

Garage: Parking: A space or structure or series of structures for the temporary storage or parking of motor vehicles, not primarily of commercial vehicles or for dead storage of vehicles, having no public shop or service in connection therewith, other than for the supplying of motor fuels and lubricants, air, water, and other operating commodities wholly within the buildings, to the patrons of the garage only and not readily visible from other properties nor advertised for sale on the exterior of the building.

Garage: Private: An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats, and similar vehicles owned or used by the occupants of the building to which it is accessory.

Garage: Service: Any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repair or kept for remuneration, hire, or sale.

Grade (Ground level): The average of the finished ground level at the center of all walls of a building. In the case where walls are parallel to and within five (5) feet of a sidewalk, the above ground level shall be measured at the sidewalk, unless otherwise defined herein.

Hedge: Any planting which encloses or partially encloses any premises.

Home Occupation: An activity, office, or occupation conducted in a dwelling unit where such use is clearly incidental and secondary to the residential use.

Hospital or Sanitarium: A public or semi-public facility that provides accommodations and continuous service for the sick and injured including obstetrical, medical, and surgical care.

Hotel: A building occupied as the more-or-less temporary abiding place of individuals who are lodged with or without meals in which there are ten (10) or more sleeping rooms and no provision made for cooking in any individual room or apartment. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

Junk Yards (Salvage Yards): An open area where waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packaged, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A “Junk Yard” or “Salvage Yard” includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings. Two (2) or more inoperative or unlicensed vehicles shall be construed to be a Junk Yard.

Kennel:

(a) any lot or premises used for the sale, boarding, or breeding of dogs, cats, or other animals for commercial purposes; or

(b) any lot or premises upon which are kept more than four (4) animals which are over the age of four (4) months, and which are either dogs or cats. Kennels are not included as permitted principal or accessory uses in any residential zoning districts and, therefore, are not allowed in those districts;

(1) an excess number of dogs and/or cats on premises that exist as of the effective date of this Ordinance (May 26, 2010) may remain without penalty until the permitted number of dogs and/or cats is achieved on the premises. No additional dogs and/or cats may be added to any such lot or premises until the number of dogs and cats is reduced to three (3) or less.

Loading Space: An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or material.

Lot: A parcel of land occupied, or to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this Ordinance. Every lot shall abut upon and have permanent access to a public street and have a minimum frontage of forty (40) feet thereon.

Lot, Area: The total horizontal area within the lot lines of the lot.

Lot, Corner: A lot which has at least two (2) contiguous sides, each abutting upon a street for its full length.

Lot, Interior: Any lot other than a corner lot.

Lots, through: Any interior lot having frontages on two (2), more or less, parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Lot, Coverage: The part or percent of the lot occupied by buildings including accessory buildings.

Lot, Line: The lines bounding a lot as defined herein.

Front Lot Lines: In the case of an interior lot, a Front Lot Line is that line separating said lot from the street. In the case of a corner lot, or double frontage lot, a Front Lot Line is that line separating said lot from either street.

Rear Lot Lines: The lot line opposite the front lot line. In the case of a lot pointed at the rear, the Rear Lot Line shall be an imaginary line parallel to the Front Lot Line, not less than ten (10) feet long lying farthest from the Front Lot Line and wholly within the lot. In the case of a Corner Lot, the Rear Lot Line is opposite the Front Lot Line of least dimension.

Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot, or lots is an interior side lot line.

Lot Width: The horizontal distance between the Side Lot Lines, measured at the two (2) points where the building line or setback line intersects the side lot lines.

Lot of Record: A parcel of land, the dimensions of which are shown on a document or map on file with the County Recorder or in common use by City or

County Officials, and which exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

Main Building: A building in which is conducted the principal use of the lot upon which it is situated.

Main Use: The principal use to which the premises are devoted and the principal purpose for which the premises exist.

Major Thoroughfare: An arterial street which is intended to serve as a large volume traffic way for both the immediate municipal area and the region beyond, and may be designated a major thoroughfare, parkway, freeway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan. Any street with a width, existing or proposed, of eighty (80) feet shall be considered a major thoroughfare.

Major Thoroughfare Plan: The official plan, as adopted by the Planning Board, of the major highways and streets, on file in the Office of the County Recorder, including all amendments and supplements subsequently adopted.

Master Plan: The comprehensive plan approved by the Planning Board including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the City and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

Mezzanine: An intermediate floor in any story occupying not to exceed two-thirds (2/3) of the floor area of such story.

Microbrewery, Microwinery, Microdistillery: Establishments engaged in on-site production of beer, wine, spirituous liquor, or other alcoholic beverages and sales of the same by the glass for on-premise consumption. These establishments are primarily used for the production of beer, wine, spiritous liquor, or other alcoholic beverages and may include retail and food service as an accessory use. The brewing operation processes the ingredients to make beer and ale by mashing, cooking, and fermenting. The brewing operation does not include the production of any other alcoholic beverage. The distilling operation is a small boutique-style distillery which produces relatively small quantities usually done in small batches.

- (a) A microbrewery shall not produce more than fifteen thousand (15,000) barrels of beer or ale per year.
- (b) No production equipment or storage is permitted on the exterior of the building.

Mobile Home: A detached single-family dwelling to be located on foundation supports, designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported after fabrication on its own wheels, or in flatbed or other trailers or detachable wheels.

Motel: A series of attached, semi-detached, or detached rental units containing a bedroom, bathroom, and a closet space. Units shall provide for overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle. It may include all facilities specified under the definition of "Hotel".

Non-Conforming Building: A building, or portion thereof, lawfully existing at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

Nursery:

(a) **Plant Material:** A space including accessory building or structure, for the growing or storage of live trees, shrubs, or plant materials not offered for retail sale on the premises, including products used for gardening or landscaping.

(b) **Retail:** A space including accessory building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises, including products used for gardening or landscaping.

Off-Street Parking Lot: A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) vehicles.

Open Space: The part of a zoning lot, including courts or yards, which is open and unobstructed from its lowest level to the sky, accessible to all tenants upon the zoning lot.

Open Space (Common): The area either dedicated to the public or commonly owned and/or available to all the residents of a planned unit development area.

Parking Space: Pursuant to this Ordinance, a "Parking Space" shall be a minimum area of two hundred (200) square feet, said area shall be exclusive of drives, aisles or entrances giving

access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

Patio: An open-sided, ground level improvement of the surface of a lot without roof which covers the vegetation and ground with concrete, wood, stone, gravel, or any other non-living building material.

Patio Cover: A projection out from the building to cover an area used for outdoor living or entry way. No vehicle, car, or similar vehicle may be stored or parked under this projection.

Personal Wireless Services: Services as defined in Title 47, Section 332(c)(7), of the United States Code.

Personal Wireless Service Antenna: A device for transmitting or receiving electromagnetic signals which carry information essential to the provision of a Personal Wireless Service.

Personal Wireless Service Facility: Facilities for the provision of Personal Wireless Services.

Personal Wireless Service Site: A place where Personal Wireless Service Facilities are maintained and operated.

Personal Wireless Service Tower: A structure for supporting a Personal Wireless Service Antenna.

Planned Development: Land under unified control, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, site plans and design principles for all buildings as intended to be located, constructed, used, and related to each other, and for other uses and improvements on the land as related to buildings. Development may be a single operation or a programmed series of development operations including all lands and buildings, with a program for provision, operations and maintenance of such areas, improvements, and facilities necessary for common use by the occupants of the development.

Planning Board: The Planning Board of Bellbrook, Ohio.

Pool, Swimming: A structure constructed or placed below ground or above ground, which is capable of containing water in excess of eighteen inches (18") of depth. For yard placement and setback purposes only, in-ground and above ground swimming pools are considered accessory buildings.

Public Utility: Any person, firm, or corporation, municipal department, board, or commission duly authorized to furnish and furnishing under state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, telephone, transportation, or water.

Recreational Vehicle (or RV): A vehicle which is used primarily for pleasure and/or recreational purposes. For purposes of determining the length, width, and/or height of a recreational vehicle, the dimensions as stated on an official Certificate of Title will be used. Types of recreational vehicles include but are not limited to, boats, motor homes, travel trailers, campers, jet skis, snowmobiles, off-road vehicles, unattached truck caps, and trailers of any kind.

Regional Flood: A flood having an average frequency of occurrence on the order of once in one hundred (100) years, although such a flood may occur in any year.

Regulatory Flood Plain: The channel and areas adjoining a channel which may be covered by the regional flood.

Restaurant: An establishment whose primary business is serving food and beverages to patrons for consumption inside the building.

Row House or Town House: A two (2) story row of three (3) or more attached one (1) family dwellings, each unit of which extends from the basement to the roof.

Story: The part of a building, except a mezzanine as defined herein, included between the surface of one (1) floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a basement is more than six (6) feet above grade, such basement shall be considered a story.

Story (Half): An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet, with a clear height of seven feet six inches (7'6"). For the purposes of this Ordinance, the usable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

Street: A public thoroughfare which affords the principal means of access to abutting property.

Structure: Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on or in the ground.

Taproom/Wine Bar: An establishment that serves malt beverages and/or wine with a minimum of fifty percent (50%) of the gross floor area devoted to the retail

sales of malt beverages, wine, and related products. Taprooms/Wine Bars do not include the service or sale of distilled spirits.

Temporary Use or Building: A use or building permitted by the Board of Zoning Appeals to exist during periods of construction of the main building or use, or for special events.

Temporary Storage Unit: A structure manufactured primarily for temporary or moveable storage, including but not limited to PODS®.

Tent: Any structure used for living or sleeping purposes, or for sheltering a public gathering constructed wholly or in part from canvas, tarpaulin, or other similar materials. Tents include but may not be limited to; movable shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings, and other similar meetings or exhibitions.

Trailer Court, (Mobile Home Park): Any plot of ground upon which two (2) or more trailer coaches or mobile homes occupied for dwelling or sleeping purposes may be located.

Transient Occupancy: The right to use, occupy or possess, the use, occupancy, or possession of the following: dwelling unit; dwelling, one (1) family; dwelling, two (2) family; or a dwelling, multiple family; or a portion of any of the aforementioned, for a period of twenty-five (25) consecutive calendar days or less.

Transient Rental: The renting, letting, subletting, leasing, or subleasing of a dwelling unit; a dwelling, one family; a dwelling, two family; or a dwelling, multiple family; or a portion of any thereof for “transient occupancy”.

Use: The purpose for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.

Variance: A modification of the literal provisions of the Zoning Code granted when strict enforcement of the Zoning Code would cause practical difficulty owing to circumstances unique to the individual property on which the variance is granted.

Wall: Any solid structure other than part of a building which encloses or partially encloses any premises.

Watercourse: A natural or artificially constructed channel in which a flow of water occurs either continuously or intermittently in a definite direction.

Yards: The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, as defined herein:

(a) **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

(b) **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.

(c) **Side Yard:** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

ARTICLE 4

ZONING DISTRICTS AND MAPS

4.01

DISTRICTS

In order to carry out the intent and purpose of this Zoning Code, the City of Bellbrook is hereby divided into the following districts:

- A-1 Agricultural District
- R-1AA One Family Residential District
- R-1A One Family Residential District
- R-1B One Family Residential District
- R-2 Two Family Residential District
- R-3 Multi-Family Residential District
- O-1 Office Building District
- B-1 Highway Business District
- B-2 Convenience Shopping District
- B-3 Neighborhood Business District
- B-4 Central Business District
- F-1 Floodway District (Overlying District)
- F-2 Floodway Fringe District (Overlying District)
- WO Wellhead Operation District
- WP Well Field Protection Overlay District
- Old Village District (Overlying District)
- PD-1 Planned Residential Development Districts
- PD-2 Planned Business Development Districts
- PD-3 Planned Industrial Districts
- PD-4 Planned Mixed-Use Development Districts
- PD-5 Planned Public and Private Buildings and Grounds Districts

4.02

DISTRICT BOUNDARIES

The boundaries of the zoning districts listed above in Section 4.01 are shown on the **Official** Zoning Map of Bellbrook, Ohio. This map together with all explanatory data thereon, including all changes thereof as hereinafter provided, are incorporated into and made a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the City’s Mayor, attested to by the Clerk of Council, and shall bear the seal of the City under the following words: “This seal is to certify that this is the Official Zoning Map referred to in Section 4.02 of the Zoning Code of the City of Bellbrook, Ohio (including date of adoption). If, in accordance with the provisions of this Zoning Code, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, the Official Zoning Map shall be updated by the Community Development Administrator (“CDA”) or the CDA’s designee within five (5) business days after

the amendment has been approved by the Council and shall include an entry on the Official Zoning Map as follows: "On (date), by official action of the Council, the following change(s) were made: (brief description with reference number to Council proceedings)."

The Official Zoning Map shall be maintained and kept current, with one (1) copy on public display in the City Building, one (1) copy posted on the City's website, and the original in the Clerk's office, accessible to the public. The Official Zoning Map is the final authority as to the current zoning district designations in the City.

4.03

UNCERTAINTY OF BOUNDARY LOCATION

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

(1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(3) Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(5) Boundaries indicated as following the shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

(6) Boundaries indicated as parallel to the extension of features indicated in subsections one (1) through five (5) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and

(7) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections one (1) through six (6) above, the City Council shall interpret the district boundaries.

4.04

ZONING UPON ANNEXATION

Whenever any area is annexed to the City of Bellbrook, one of the following conditions shall apply:

(1) Land that is zoned before annexation shall be classified as being in whichever zoning district of the City that most closely conforms with the zoning that existed prior to annexation; such classification to be recommended by the Planning Board to Council after public hearing, for an interim period, and the Council shall approve the same after a public hearing.

(2) Land not zoned prior to annexation shall be classified in the same manner into whichever zoning district of the City that most closely conforms with the existing use of the annexed area or in accordance with the City's Comprehensive Plan in the case of vacant land.

(3) In all cases, within three (3) months after the effective date of annexation, the Planning Board shall recommend the appropriate permanent zoning districts for the annexed area to Council after public hearing, and the Official Zoning Map shall be amended upon approval by Council pursuant to the prescribed procedure set forth in Article 21.

ARTICLE 5

R-1AA, R-1A, R-1B ONE FAMILY RESIDENTIAL DISTRICTS

5.01

PURPOSE AND INTENT

These districts are the most restrictive of the residential districts. The purpose and intent are to provide for an environment of predominantly low-density, single-unit dwellings; to allow certain other facilities which serve the residents living in the district; and to regulate transient occupancy within the City to protect and preserve the permanency of residential neighborhoods, protect property values, and ensure the comfort and safety of the residents.

5.02

PERMITTED PRINCIPAL USES

- (1) One-family dwellings, not including trailers or tent dwellings.
- (2) Churches and similar places of worship; provided such use is adjacent to a school or commercial area and/or access is by means of roads designated on primary or secondary thoroughfares by the City's Major Thoroughfare Plan.
- (3) Parks and playgrounds.
- (4) Public and private elementary, junior, and senior high schools.
- (5) Parish houses and convents in conjunction with churches or schools.
- (6) Nursery schools operated and housed in a church building or other established house of worship.
- (7) Accessory Dwelling Units, provided such use shall meet the following:
 - (a) An accessory dwelling unit may be located within a principal single-family detached dwelling or a detached accessory structure on the same lot as a principal dwelling.
 - (b) The accessory dwelling unit shall share all public utilities with the principal dwelling unit. Accessory dwelling units shall not be metered separately.
 - (c) A minimum of one (1) off-street parking space shall be provided on the lot for the accessory dwelling unit in addition to the off-street parking spaces required for the principal dwelling unit.
 - (d) The accessory dwelling unit shall be limited in size to a maximum of fifty percent (50%) of the total living area of the principal dwelling or eight hundred (800) square feet, whichever is less, in the R-1AA Zoning District.

The accessory dwelling unit shall be limited in size to a maximum of fifty percent (50%) of the total living area of the principal dwelling or six hundred (600) square feet in the PR, R-1A and R-1B Zoning Districts.

(e) The accessory dwelling unit shall contain a living area, a minimum of one (1) bathroom, and a cooking facility.

(f) No new access points or driveways shall be created or installed for access to the accessory dwelling unit.

5.03

ACCESSORY USES

(1) Private garage for storage of vehicles of residents and employees.

(2) A home occupation is an occupation conducted in a dwelling unit, provided that:

(a) A home occupation shall be conducted entirely within the principal residential structure with no more than twenty-five percent (25%) of the total floor area to be used in connection with the home occupation. No home occupation shall be conducted in any accessory structure, nor shall the storage of equipment related to the home occupation be contained within any accessory structure;

(b) There shall be no change in the external appearance of the building or premises resulting from the home occupation nor shall there be any storage of products, equipment, or materials on the lot. No more than one (1) sign, not to exceed one (1) square foot in total sign area, is permitted on the building, which shall be non-illuminated and mounted flat against the wall of the principal building;

(c) Only members of the household residing on the premises where the home occupation occurs may be employed full or part-time in the home occupation. In no case shall a home occupation be permitted to operate earlier than 8 a.m. or later than 6 p.m. An exception to this requirement is for direct sale of consumer products where parties for the purpose of taking orders or selling merchandise are held;

(d) Traffic generated by the home occupation shall not create safety hazards nor be substantially greater in vehicular size nor exceed on any continual basis the average number of vehicle trips that would normally be expected. Vehicles having a cargo area greater than twenty-two (22) feet in length or having dual rear axles are prohibited;

(e) No area on the residential property may be created to park any vehicles or equipment related to the home occupation. Any home occupation which requires the creation of parking in addition to the parking areas already provided for the single-family residence shall not be operated within a residential zoning district. The use of a home occupation shall not reduce or render unusable areas provided for required off-street parking for the dwelling unit;

(f) A home occupation shall not produce heat, cold or dampness, create noise, vibration, fire, explosion, light, glare, dust, smoke, fumes, or odor, electric or electronic disturbances detectable to normal sensory perception by a person located off the premises or beyond the walls of the dwelling; and

(g) A home occupation shall be conducted in accordance with all other regulations of the City and the county as well as all state and federal laws and licensing requirements.

(3) Pools: Swimming pools for use by residents and guests only. See Accessory Buildings (Zoning Code Section 18.05B) and Fences and Walls (Zoning Code Section 18.06).

(4) Signs Permitted as Accessory Uses: See Permitted Signs (Zoning Code Section 18.20).

5.04

CONDITIONAL USES

The following uses are allowed in any R-1 Residential District provided a conditional use permit is granted by the Board of Zoning Appeals as provided in Zoning Code Section 20.14, and further provided, that all buildings allowed by such conditional use permit shall be set back from all lot lines a minimum of three (3) feet for each one (1) foot of building height.

(1) Public recreation and community center buildings and recreation areas or buildings operated by membership clubs for the benefit of their members and not for gain, provided that any principal building, accessory building, or outdoor swimming pool shall be located not nearer than two hundred (200) feet from any adjoining land zoned for a residential use.

(2) Public owned or leased buildings, public utility buildings, telephone exchanges, transformer stations and sub-stations, and garages and maintenance buildings.

(3) Institutions of higher learning and libraries.

(4) Cemeteries, when extension of existing cemeteries.

(5) Golf courses.

(6) Public and private school facilities (excluding buildings used for instructional purposes, which are permitted principal uses in R-1AA, R-1A, R-1B, R-2, and R-3 Districts).

5.05

YARD REQUIREMENTS

See Zoning Code Section 7.10, Schedule of Yard and Lot Requirements.

5.06

BUILDING HEIGHT REGULATIONS

No building shall be erected in excess of two and one half (2 ½) stories or thirty-five (35) feet in height in any R-1 Zoning District.

5.07

ACCESSORY PARKING

Two (2) car spaces for each dwelling unit are required. See Zoning Code Section 18.16 for additional uses and parking regulations.

All driveways and parking spaces located in the front, side, and rear yards shall be required to have a paved surface which shall be defined as a hard, smooth surface made principally of asphalt, concrete, Portland cement, brick, or pavers that will bear travel. Existing unpaved driveways or parking spaces located in the front or side yards must be paved if additions or extensions are proposed to be made to any part of the unpaved driveway or parking space in the front or side yards. The parking of vehicles on the lawn or in other areas not designated for parking is prohibited.

No more than two (2) recreational vehicles may be parked upon any lot within these residential zoning districts at any time.

5.08

SIGNS

See Zoning Code Section 18.20 for sizes and location of permitted signs.

5.09

TRANSIENT RENTAL REGULATIONS

No dwelling unit or dwelling, one family, or a portion of any thereof in the R-1AA, R-1A, or R-1B Districts, shall be used as a transient rental.

ARTICLE 6

R-2 TWO-FAMILY RESIDENTIAL DISTRICTS

6.01

PURPOSE AND INTENT

The purpose and intent of this district recognizes the existence of older residential areas of the City where larger houses have been or can be converted from single-family to two-family residences to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district also allows the construction of new two-family residences where slightly greater densities are permitted. This Article also regulates transient occupancy within this district and protects and preserves the permanency of residential neighborhoods, protects property values, and ensures the comfort and safety of the residents.

6.02

PERMITTED PRINCIPAL USES

- (1) Two-family dwellings.
- (2) Those uses permitted in R-1 Districts.

6.03

ACCESSORY USES

Those accessory buildings and accessory uses customarily incidental to the permitted principal uses in this district.

6.04

CONDITIONAL USES

- (1) Those conditional uses permitted in R-1 Zoning Districts.
- (2) Mobile Home Courts.
- (3) Nursery schools, provided that there is compliance with all state laws, regulations, and licensure requirements.

6.05

YARD REQUIREMENTS

See Zoning Code Section 7.10, Schedule of Yard and Lot Requirements.

6.06

BUILDING HEIGHT REGULATION

No building shall be erected in excess of two and one-half (2 ½) stories or thirty-five (35) feet in height in any R-2 Zoning District.

6.07

ACCESSORY PARKING

(1) Four (4) off-street parking spaces for each two-family dwelling is required.

(2) Two (2) parking spaces for each one-family dwelling is required.

(3) See Zoning Code Section 18.16 for additional uses and parking regulations.

6.08

SIGNS

See Zoning Code Section 18.20 for size and location of permitted signs.

6.09

TRANSIENT RENTAL REGULATIONS

No dwelling unit or dwelling, two-family or a portion of any thereof in the R-2 Zoning Districts, shall be used as a transient rental.

ARTICLE 7

R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

7.01

PURPOSE AND INTENT

The purpose and intent of this district is to allow construction of apartment buildings and condominiums and to regulate transient occupancy within this district to protect and preserve the permanency of residential neighborhoods, protects property values, and ensure the comfort and safety of the residents.

7.02

PERMITTED PRINCIPAL USES

- (1) Those uses permitted in R-1 and R-2 Zoning Districts.
- (2) Two family dwellings.
- (3) Apartment houses and apartment hotels.
- (4) Multiple dwellings.
- (5) Churches and similar places of worship.
- (6) Parish houses and convents in conjunction with churches or schools.
- (7) Public community center buildings, parks, playgrounds, and golf courses.
- (8) Public and parochial schools.
- (9) Public libraries.
- (10) Row houses.
- (11) Town houses.

7.03

ACCESSORY USES:

- (1) Garages shall be permitted for storage purposes only with no repair facilities.
- (2) Those accessory buildings and accessory uses customarily incidental to the permitted principal uses in this district.

7.04

CONDITIONAL USES:

(1) Those conditional uses permitted in R-1 and R-2 Zoning Districts.

(2) Convalescent or nursing homes.

(3) Dormitories and group housing.

(4) Fraternities, sororities, clubs, lodges, social or recreational buildings or properties not for profit.

(5) Hospitals, clinics, sanitariums for human care.

(6) Mortuaries.

(7) Motels.

(8) Offices of architects, engineers, and artists.

(9) Offices of surgeons, physicians, dentists, and other similar professional persons concerned with the community health and medical treatment of persons.

(10) Offices in which the personnel will be employed for work in executive, administrative, legal, writing, clerical, stenographic, accounting, insurance, or similar enterprises.

7.05

YARD REQUIREMENTS

See Zoning Code Section 7.10, Schedule of Yard and Lot Requirements.

7.06

BUILDING HEIGHT REGULATIONS:

No building shall be erected in excess of two and one-half (2 ½) stories or thirty-five (35) feet in height in any R-3 Zoning District.

7.07

ACCESSORY PARKING

(1) Two (2) off-street parking spaces per dwelling unit are required in any R-3 Zoning District.

(2) One (1) off-street parking space for each two (2) roomers is required in any R-3 Zoning District.

(3) See Zoning Code Section 18.16 for additional uses and parking regulations.

7.08

SIGNS

See Zoning Code Section 18.20 for size and location of permitted signs.

7.09

TRANSIENT RENTAL REGULATIONS

No dwelling unit or dwelling, multi-family, or a portion of any thereof in the R-3 Zoning District, shall be used as a transient rental.

7.10

SCHEDULE OF YARD AND LOT REQUIREMENTS

(Measurements stated in feet unless otherwise noted)

District	Min. Lot Area (SF)	Min. Lot Width	Min. Corner Lot Width	Min. Front Yard*	Min. Rear Yard	Min. Side Yard	Total Side Yards	Types of Bldgs.	Min. Floor Area per Unit (SF)
R _{-1AA}	5 acres	200	200	100	100	20	50	All	1500
R _{-1A}	20,000	100	125	40	50	8 10	20 25	1/1 ½ ST 2/2 ½ ST	1200 1200
R _{-1B}	16,000	100	125	30	40	8 10	20 25	1/1 ½ ST 2/2 ½ ST	1200 1200
R ₋₂	14,000	100	125	30	40	8 10	20 25	1/1 ½ ST 2/2 ½ ST	850 850
R ₋₃	10,000**	100	125	30 (50)	30 (50)	8 (50) 10 (50)	20 (100) 25 (100)	1 STORY 2 STORY	*** ****

* Figures shown in parenthesis are the setbacks required when an R-3 Zoning District abuts a single-family residential district and applies to all buildings (including accessory buildings).

** Minimum lot area for a two-family dwelling in this district. For each additional dwelling unit, there shall be an additional two thousand (2,000) square feet of lot area. At no time shall the lot areas be less than five thousand (5,000) square feet per unit.

*** Seven hundred fifty (750) square feet for two (2) bedrooms; five hundred seventy (570) square feet for one (1) bedroom.

**** One hundred fifty (150) square feet for each additional bedroom.

NOTE: Whenever the frontage of one (1) side of a block is more than forty percent (40%) developed at the time of the enactment of this Ordinance, the required setback for new construction or alteration shall be the average of the established setbacks. However, in no event shall this regulation be interpreted so as to require a front yard or more than fifty (50) feet for residential use.

ARTICLE 8

O-1 OFFICE BUILDING DISTRICTS

8.01

PURPOSE AND INTENT

The purpose and intent of this district is to provide for the maintenance and alteration of existing buildings and for new construction of business office and professional buildings.

8.02

PERMITTED PRINCIPAL USES

(1) Offices of surgeons, physicians, dentists, and other similar professional persons concerned with the community health and medical treatment of persons.

(2) Facilities for human care such as hospitals, medical clinics, sanitariums, rest, and convalescent homes.

(3) Offices of architects, engineers, artists, and others employed in the graphic arts.

(4) Offices in which the personnel will be employed for work in executive, administrative, legal, writing, clerical, stenographic, accounting, insurance, or similar enterprises.

(5) Public and semi-public buildings, not including storage yards, for materials or equipment.

(6) Dental laboratories.

(7) Art or antique shops, photographic studios, interior decorating studios.

8.03

ACCESSORY USES

Those uses and buildings customarily incidental to the permitted principal uses in this district.

8.04

CONDITIONAL USES

Research laboratories.

8.05 **YARD REQUIREMENTS**

In the O-1 Office Building Districts, the minimum yard areas of the B-3 Neighborhood Business District shall apply.

8.06 **BUILDING HEIGHT REGULATIONS**

The building height in this district shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet except that an O-1 Zoning District that is contiguous to a B-4 Central Business District may have a building height not exceeding three (3) stories or forty (40) feet.

8.07 **ACCESSORY PARKING**

Accessory parking spaces shall be in accordance with the provisions of Zoning Code Section 18.16.

8.08 **OFF-STREET LOADING**

Off-street loading spaces shall be in accordance with the provisions of Zoning Code Section 18.15.

8.09 **SIGNS**

See Zoning Code Section 18.20 for size and location of permitted signs.

8.10 **LANDSCAPING**

All yard areas not used for buildings, parking, or ways for pedestrians or vehicles shall be planted with grass and/or shrubbery so as to provide attractive green areas.

8.11 **SCREENING**

See Zoning Code Section 18.17 for screening regulations for uses adjoining residential districts.

8.12 **LOT COVERAGE**

Principal buildings shall be limited to thirty percent (30%) of the lot area and accessory buildings, parking areas, and drives shall also be limited to thirty percent (30%) of the lot area.

ARTICLE 9

B-1 HIGHWAY BUSINESS DISTRICTS

9.01

PURPOSE AND INTENT

This purpose and intent of this district is to provide for highway-oriented uses and less intensive business types to serve the market of the urban area rather than the neighborhood. These districts are typically mapped along major traffic arteries and/or adjacent to the Central Business District.

9.02

PERMITTED PRINCIPAL USES

- (1) Those uses permitted in all residential districts.
- (2) Automobile service stations including light repairs and accessory sales and installation.
- (3) Drive-In Restaurants.
- (4) Motels and Hotels.
- (5) Restaurants.

9.03

ACCESSORY USES

Uses customarily accessory to the above-listed permitted principal uses.

9.04

CONDITIONAL USES

- (1) Auto wash facilities which are at least partially enclosed in a building.
- (2) Building services and supplies, including lumber yards.
- (3) Mortuary establishments (which may include a caretaker's residence within the main building of the mortuary establishment).

9.05

YARD REQUIREMENTS

In a B-1 Highway Business District, the following yard area shall be provided:

(1) Front yards: A twenty-five (25) foot front yard shall be required except where the frontage on one side of the block is divided between B-1 Highway Business District and a residential district. In that event, the front yard of the residential district shall apply to the area in the B-1 Highway Business District.

(2) Side Yards: When a B-1 Highway Business District abuts a residential district, a side yard of not less than ten (10) feet in width is required. In all other instances, a side yard is not required in a B-1 Highway Business District.

(3) Rear Yards: When a B-1 Highway Business District abuts a residential district, a rear yard of thirty (30) feet is required. In all other instances, a rear yard is not required in a B-1 Highway Business District.

9.06

BUILDING HEIGHT REGULATIONS

No building in the B-1 Highway Business District shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

9.07

ACCESSORY PARKING

Parking spaces shall be provided in accordance with the provisions of Zoning Code Section 18.16.

9.08

OFF-STREET LOADING

Off-Street loading spaces shall be provided in accordance with the provisions of Zoning Code Section 18.15.

9.09

SIGNS

See Zoning Code Section 18.20 for size and location of permitted signs.

9.10

SCREENING

See Zoning Code Section 18.17 for screening regulations for uses adjoining residential districts.

ARTICLE 10

B-2 CONVENIENCE SHOPPING DISTRICT:

10.01

PURPOSE AND INTENT

The purpose and intent of this district is to provide for a limited range of convenience goals to supply the emergency needs of those citizens living in the immediate vicinity. The size of this district will be approximately one (1) acre and shall include one (1) to four (4) uses to serve approximately two thousand (2,000) people.

10.02

PERMITTED PRINCIPAL USES

(1) Those uses permitted in all residential districts.

(2) Barber and beauty shops.

(3) Drug Stores.

(4) Food Stores.

(5) Laundry and dry-cleaning pick-up service and coin operated washing and dry-cleaning facilities.

10.03

ACCESSORY USES

Uses customarily accessory to the above-listed permitted principal uses.

10.04

YARD REQUIREMENTS

The yard requirements for this zoning district are the same as the yard requirements of the adjacent and surrounding residential districts.

10.05

BUILDING HEIGHT REGULATIONS

No building in the B-2 Convenience Shopping District shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

10.06

ACCESSORY PARKING

Parking spaces shall be provided in accordance with the provisions of Zoning Code Section 18.16.

10.07

OFF-STREET LOADING

Off-Street loading spaces shall be provided as required in Zoning Code Section 18.15.

10.08

SIGNS

See Zoning Code Section 18.20 for size and location of permitted signs.

10.09

SCREENING

See Zoning Code Section 18.17 for screening regulations for uses adjoining residential district.

ARTICLE 11

B-3 NEIGHBORHOOD BUSINESS DISTRICT:

11.01

PURPOSE AND INTENT

The purpose and intent of this district is to provide an integrated collection of structures and uses designed to supply a majority of the daily needs of those citizens living in the immediate vicinity. Ideally, these districts should be spaced no less than one (1) mile apart.

11.02

PERMITTED PRINCIPAL USES

(1) Those uses permitted in all residential districts.

(2) Auto service station, for only the sale of gas, lubricants, coolants and accessories and the performance of incidental services such as tire installation and automobile washing, cleaning, and polishing, but not major overhaul, bumping, or painting.

(3) Automobile sales and service (new or used).

(4) Bakery in which the manufacture is limited to goods retailed only.

(5) Barber and beauty shops.

(6) Book and stationary stores.

(7) Bowling alleys.

(8) Candy or confectionery stores in which the manufacture is limited to goods retailed only.

(9) Carry-outs.

(10) Clothing stores.

(11) Dairy bars and soft ice cream shops.

(12) Department stores.

(13) Drug stores.

(14) Dry cleaning, laundry pickup service, and coin-operated washing and dry-cleaning facilities.

(15) Dry goods and notions stores.

(16) Eating and drinking restaurants or other places serving food and/or beverages.

(17) Banks, finance, and loan agencies.

(18) Floral shop, fruit, nursery stock, and produce sales.

(19) Food markets.

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

(21) Gift shops.

(22) Hardware stores.

(23) Household appliance repair.

(24) Jewelry stores.

(25) Photographic studios.

(26) Physicians' offices, dentists' offices, and private clinics.

(27) Plumbing and heating shops.

(28) Radio, TV, and music stores.

(29) Shoe stores.

(30) Shoeshine and shoe repair shops.

(31) Tailors and dress makers' shops.

(32) Uses similar to the above uses.

11.03

ACCESSORY USES

Uses customarily accessory to the above-listed permitted principal uses.

11.04

YARD REQUIREMENTS

In a B-3-Neighborhood Business District, the following minimum yard are required:

(1) Front yards: No front yard shall be required except:

When the frontage on one side of a block is divided between a Neighborhood Business District and a residential district, or is across the street from any residential district, or is across street from any residential district, the front yard requirement of the residential district shall apply to the area in the Neighborhood Business District.

(2) Side Yards: Side yards shall not be required excepting:

(a) A yard not less than ten (10) feet in width shall be provided where a side lot line of a Neighborhood Business District abuts a residential district.

(b) In all other cases, no side yards shall be required for a business, but if such a yard is voluntarily provided, it shall be not less than six (6) feet in width.

(3) Rear Yards: Rear yards shall not be required excepting where a rear lot line of a Neighborhood Business District abuts a residential district. In such instances, there shall be a rear yard of twenty-five (25) feet for a one_ (1) or two_ (2) story building. Such yards may be measured from the centerline of an intervening alley. An additional one (1) foot of rear yard shall be provided for each two (2) feet of height over twenty-five (25) feet.

A wall or decorative fence at least five feet six inches (5'6") high shall be placed along the boundary line of a rear yard abutting a residential district.

11.05

BUILDING HEIGHT REGULATIONS

No building in the B-3 Neighborhood Business District shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

11.06

ACCESSORY PARKING

Parking spaces shall be provided in accordance with the provisions of Zoning Code Section 18.16.

11.07

OFF-STREET LOADING

Off-street loading spaces shall be provided as required in Zoning Code Section 18.15.

11.08

SIGNS

See Zoning Code Section 18.20 for size and location of permitted signs.

11.09

SCREENING

See Zoning Code Section 18.17 for screening regulations for uses adjoining residential districts.

11.10

CONDITIONAL USES

Conditional uses are as follows:

The following use is permitted pursuant to Article #20, Section 20.14, Procedures and Requirements for Approval of Conditional Use Permits and subject to compliance with applicable standards and conditions set forth in Article #18, Section 18.30 and to all other applicable requirements of the Ordinances of this City:

Adult entertainment facilities, as defined in Article #18, Section 18.30.

ARTICLE 12

B-4 CENTRAL BUSINESS DISTRICT

12.01

INTENT

This district is designed to provide for a restricted variety of retail stores and related activities and for office buildings and service establishments which occupy the prime retail frontage in the Central Business District, and which serve the comparison, convenience, and service needs of a consumer population well beyond the corporate boundaries of the City. The district regulations are also designed to provide for a centrally located major shopping complex which will be serviced with conveniently located off-street parking compounds and safe pedestrian movement, but to exclude non-retail uses which generate a large volume of truck traffic.

12.02

PERMITTED PRINCIPAL USES

(1) Any generally recognized retail business, service establishments, or processing uses as follows:

- (a) Those uses permitted in all residential districts.
- (b) Apparel shops, including specialty shops of all sorts, shoe stores, and similar uses.
- (c) Shops selling automobile parts and accessories exclusively.
- (d) Banks, loan offices, stock exchange offices, and other financial institutions.
- (e) Commercial recreation facilities such as bowling alleys or movie theaters.
- (f) Department stores.
- (g) Drug stores.
- (h) Eating and drinking restaurants or other places serving food and/or beverages.
- (i) Food stores including supermarkets and all types of specialty food stores such as bakeries, candy stores, and similar uses.

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

(k) Gift shops, camera shops, record shops, and similar uses.

(l) Hardware and related stores such as paint, wallpaper, and similar uses.

(m) Hotels and motels.

(n) Professional and other offices drawing a large number of clients and/or customers such as, but as not restricted to:

(1) Chamber of Commerce, automobile clubs.

(2) Doctors, dentists, lawyers, architects.

(3) Insurance companies, realtors, unions.

(4) Post offices.

(5) Utility offices.

(o) Publishing and printing.

(p) Repair shops such as shoe and watch repair.

(q) Service shops such as barber, beauty, laundry, cleaner, and similar uses.

(r) Travel agencies.

(s) Variety stores.

(t) Brewpubs, taprooms, and wine bars.

(2) Public and semi-public buildings and privately-owned schools such as but not restricted to:

(a) Churches.

(b) Fraternal organizations.

(c) Libraries.

(d) Municipal offices.

(e) Parking garages.

(f) Nursery schools, provided that there is compliance with State of Ohio requirements regarding spaces for play areas per child either on site or in a public play area no more than one (1) block from the facility.

(3) Other uses, which in the opinion of the Planning Board are similar to the above uses indicated as being permitted. The Planning Board shall receive a written recommendation from the Old Village District Review Board when considering other or additional uses in the Old Village District. The following uses are expressly prohibited:

(a) Adult entertainment facilities; (See Article 18, Section 18.30);

(b) Auto service stations;

(c) Mechanized car wash facilities; and

(d) New or used auto sales lots or showrooms.

(4) Off-street parking facilities provided according to the provision of Zoning Code Section 18.16 excluding multi-story parking garages.

12.03

ACCESSORY USES

Accessory structures and uses customarily incidental to the above permitted uses.

12.04

YARD REQUIREMENTS

In a Central Business District, the following yard areas shall be provided:

(1) Front Yards: No front yard shall be required except where the frontage on one (1) side of a block is divided between a Central Business District and a residential district, or across the street from a residential district, the front yard requirement of the residential zone shall apply to the area in the Central Business District.

(2) Side Yards: Side yards shall not be required excepting:

A yard not less than six (6) feet in width shall be required where a side lot line of Central Business District abuts a residential district. One (1) additional foot of yard space shall be added for each additional two (2) feet of building height above twenty-five (25) feet.

(3) Rear Yards: Rear yards shall not be required excepting:

Where a rear lot line of a Central Business District abuts a residential district, there shall be a rear yard of twenty-five (25) feet for one (1) or two (2) story buildings, an additional one (1) foot of rear yard shall be provided for each two (2) feet of building height over twenty-five (25) feet, such yard may be measured from the centerline of an intervening alley. Where there is no alley, a wall or decorative fence at least five feet six inches (5' 6") high shall be placed along the boundary line of a rear yard abutting a residential district.

12.05

BUILDING HEIGHT REGULATIONS

There shall be no specific height limitation in a B-4 District provided, however, that prior to the issuance of a zoning permit for any structure which is planned to exceed thirty-five (35) feet in height, the Old Village District Review Board shall make a finding that any such excessive height will not be detrimental to the public safety, or to the light, air, or privacy of any other structure or use currently existing or approved for construction.

12.06

ACCESSORY PARKING

In the B-4 Central Business District, there are no requirements for providing a minimum number or amount of parking spaces. However, the General Provisions of Section 18.16(1) of this Zoning Code shall apply to accessory parking provided in this district.

12.07

OFF-STREET LOADING

Off-street loading spaces shall be provided as required by in ~~with the~~ Zoning Code Section 18.15.

12.08

SIGNS

See Zoning Code Section 18.20 for sizes and location of permitted signs.

12.09

SCREENING

See Zoning Code Section 18.17 for screening regulations for uses adjoining residential districts.

12.10

CONDITIONAL USES

(1) Microbreweries, microwineries, and microdistilleries.

ARTICLE 13

WO, WP WELL FIELD PROTECTION DISTRICTS

13.01

PURPOSE AND INTENT

It is the purpose and intent of the WO Wellhead Operation District and the WP Well Field Protection Overlay District to safeguard the public health, safety, and welfare of the customers of the protected public water supplies and to protect the community's potable water supply against contamination by regulating land use and the storage, handling, use and/or production of Regulated Substances as defined below in Section 13.02. These districts will be shown on the City of Bellbrook Zoning Map at the location of any existing or proposed public wells and their capture areas.

13.02

DEFINITIONS

"Aquifer" means a glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.

"Deminimis Quantity" means a specified amount Regulated Substances, expressed in gallons and/or pounds, that is excluded from the provisions of the WO Wellhead Operation District and the WP Well Field Protection Overlay District regulations. Any use of Regulated Substances in excess of the deminimis quantities and not explicitly subject to exclusion is considered nonconforming.

"Direct Recharge Area" means that portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.

"Non-Routine Maintenance" means activities necessary not more frequently than every twenty-four (24) months to keep structures and equipment in good repair.

"One Year Capture Area" means the area around protected public water supply well fields delineated by the one-year travel time contour.

"Overlay District" means a district described on the zoning map within which, through super-imposition of a special designation, certain regulations and requirements apply, in addition to those of the underlying zoning districts to which such designation is added.

“Potable Water” means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

“Protected Public Water Supply” means a public water system which services at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents, and having a one-year capture area defined through appropriate hydrologic studies.

“Recharge Lagoon” means a body of water designed and maintained by man to add water to the groundwater at a rate greater than that occurring naturally.

“Regulated Substances” means chemicals and mixtures of chemicals which are health hazards. Materials packaged for personal or household use as food or drink for man or other animals are not Regulated Substances. Regulated Substances include:

(1) Chemicals, including but not limited to PFAS chemicals, for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

(2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

(3) Mixtures of chemicals which have not been tested but which contain any chemical which has been determined to be a health hazard and which comprises one percent (1%) or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include carcinogen if the concentration of the carcinogen in the mixture is one tenth of one percent (.1) or greater of the composition on a weight per unit weight basis.

(4) Ingredients of mixtures prepared within the WP Well Field Protection Overlay District in cases where such ingredients are health hazards but comprise less than one tenth of one percent (0.1) of the mixture on a weight per unit weight basis if carcinogenic, or less than one percent (1%) of the mixture on a weight per unit weight basis if non-carcinogenic.

(5) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

“Travel Time Contour” means a locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.

“Underground Storage Tank” means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of Regulated Substances and the volume of which (including the volume of underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground. Flow-through process tanks and septic tanks approved by the Health Department or State Environmental Protection Agency, as applicable, are excluded from the definition of underground storage tanks.

“Well Field” means a tract of land that contains a number of wells for supplying water.

“Zone of Influence” means a zone delineated by iso-travel time contours around well fields. The zone is calculated, based on the rate of movement of groundwater in the vicinity of well with an allowance for the dispersion of a pollutant entering into and moving with the groundwater.

13.03

DETERMINATION OF APPLICABILITY

(1) Responsibility

It shall be the responsibility of any person owning real property and/or owning or operating a business within the City of Bellbrook to make a determination of the applicability of this Article as it pertains to the property and/or business and failure to do so shall not excuse any violations of this Article.

(2) Applicability Based on Regulated Substances

Applicability based on de minimis quantities and/or limited exclusions pertaining to Regulated Substances as set forth in this Article shall be determined separately for each use, as that term is defined in Article 3, Section 3.02, associated with the property.

13.04

WO WELLHEAD OPERATION DISTRICT

(1) Permitted Principal Uses:

(a) Municipal water supply, treatment, and operations facilities in accordance with the City of Bellbrook's plan(s) for water supply and treatment.

(b) Public parks, playgrounds, and community centers.

(2) Conditional Uses:

(a) Public utility uses including electric and telephone substations; gas regulator and meter station buildings; and electric and communications transmission towers and structures.

(b) Existing single family detached residences.

(3) Groundwater Protection Standards:

(a) Use of Regulated Substances in conjunction with public water supply and treatment activities shall not be restricted by this paragraph.

(b) Use of Regulated Substances in conjunction with public parks, playgrounds and community centers shall be in accordance with the City of Bellbrook's management plan for Maintenance of Sensitive Areas.

(c) Use of Regulated Substances in conjunction with conditional uses in this district shall be limited to:

(1) The aggregate of Regulated Substances in use may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any time.

(2) The total use of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

(d) A limited exclusion from the provisions of Section 13.04, Paragraph (3)(c) is authorized for non-routine maintenance or

repair of property or equipment. The use of Regulated Substances under this exclusion shall be limited to:

(1) The aggregate of Regulated Substances in use may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

(2) The total use of Regulated Substances may not exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

(e) Storage of regulated Substances in conjunction with public water supply and treatment activities shall not be restricted by this paragraph.

(f) Underground storage of fuel and lubricants for vehicle operations in conjunction with permitted and conditional uses in this district shall be in tanks placed above the floor surface of a below grade vault. Said vault shall allow access for physical inspection of the tank for leakage and the interior of the vault shall be continuously monitored and alarmed to provide for automatic and immediate detection of any release from the tank.

(g) Notwithstanding other provisions of this Article, nonconforming uses in this district presently utilizing underground storage tanks for fuel and lubricants for vehicle operations shall be permitted to replace existing tanks with those constructed as per the specifications of Section 13.04, Paragraph (3)(f) and not exceeding the capacity of existing tanks. Replacement of underground tanks for Regulated Substances other than fuel and lubricants for vehicle operations is not permitted.

(h) Storage of Regulated Substances other than fuel and lubricants for vehicle operations in conjunction with permitted and conditional uses in this district is prohibited.

(i) As part of the findings required under Article 19 of the Zoning Code prior to issuance of a Zoning Permit/Certificate of Zoning Compliance, the Community Development Administrator shall utilize the Hazard Potential Ranking System, identified in Section 13.05, Paragraph (9) to assist in the determination of intensity of use within this district. No substitutions of a non-conforming use

shall be permitted which result in an increase of the Hazard Potential Ranking on a parcel within this district.

(j) All uses within this district shall be connected to the public wastewater disposal system within a three (3) year period from the effective date of this Ordinance or have a wastewater disposal system approved by the Greene County Combined General Health District.

13.05

WP WELL FIELD PROTECTION OVERLAY DISTRICT

(1) Applicability of Well Field Protection Overlay District to Underlying Zoning Districts:

The provisions of this Section shall be applicable to all lands shown as being located within the boundaries of the WP Well Field Protection Overlay District on the Zoning Map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this section are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.

(2) Permitted Principal Uses:

The permitted uses within the WP Well Field Protection Overlay District shall be those of the underlying zoning district.

(3) Accessory Uses:

Accessory uses and buildings within the WP Well Field Protection Overlay District shall be those customarily incident to the permitted principal uses of the underlying zoning district.

(4) Conditional Uses:

The requirements of this paragraph shall be in addition to any applicable regulations found elsewhere within the Zoning Code.

(a) The conditional uses within the WP Well Field Protection Overlay District shall be those of the underlying zoning district, except as specified in Section 13.05, Paragraphs (4)(b) and (7).

(b) When listed as a permitted or conditional use within the underlying zoning district, the excavation, extraction, mining, or processing of sand, gravel, and limestone from the earth for resale shall remain as conditional uses in the WP Well Field Protection Overlay District, subject

to Board of Zoning Appeals approval of an excavation and facilities plan that includes, but is not limited to:

(1) An existing site plan with topographic detail at two (2) foot contour intervals, all planimetric information, depth to groundwater, and flood plain characteristics where applicable.

(2) The proposed extent and depth of excavations.

(3) Slope angle of excavation walls (any final slopes shall be at the angle of repose for the remaining material).

(4) Use and disposition of the spoil and/or overburden materials from the excavations including a landscaping and vegetation plan to stabilize any disturbed material.

(5) Surface drainage plan:

(A) Drainage into on-site excavation from proximate off-site transportation facilities such as roadways and roadbeds and off-site watercourses is prohibited unless the applicant provides a plan which otherwise protects the excavation from off-site waterborne Regulated Substances.

(B) The final on-site grading shall minimize all surface drainage into the excavations.

(6) A post-excavation and operation land use plan.

(7) A security plan (unauthorized access shall be strictly prohibited as long as any excavations remain on site).

(5) Non-Conforming Uses:

Uses using, storing, handling and/or producing Regulated Substances in amounts in excess of the quantities specified in Section 13.05, Paragraphs (8)(a) through (8)(f) are non-conforming uses subject to the requirements of this section.

(6) Yard Requirements and Building Height Regulations:

Yard requirements and building height regulations shall be those of the underlying zoning district.

(7) Prohibited Uses:

Sanitary landfills, drywells, landfills comprised of demolition debris or other non-approved matter and junkyards are prohibited within the WP Well Field Protection Overlay District.

(8) Groundwater Protections Standards:

(a) Use, storage, handling and/or production of Regulated Substances in conjunction with permitted and conditional uses in this district shall be limited to:

(1) Aggregate of Regulated Substances: The aggregate of Regulated Substances in use, storage, handling and/or production may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any time.

(2) Total Use of Regulated Substances: The total use, storage, handling and/or production of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

(b) A limited exclusion from the provisions of Section 13.05, Paragraph (8)(a) is authorized for non-routine maintenance or repair of property or equipment. These, storage, handling and/or production of Regulated Substances under this exclusion shall be limited to:

(1) The aggregate of Regulated Substances in use, storage, handling and/or production may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

(2) The total use, storage, handling and/or production of Regulated Substances may not exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

(3) The application of USEPA approved agricultural chemicals by licensed personnel using USEPA best recommended practices. Below ground applications in excess of one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period shall

require 72-hour prior notice to the City of Bellbrook Community Development Administrator or his designee.

(c) A limited exclusion from the provisions of Section 13.05, Paragraph (8)(a) is authorized for each medical and research laboratory use, provided however, Regulated Substances shall be stored, handled, or used in containers not to exceed five (5) gallons or forty (4) pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed two hundred and fifty (250) gallons or two thousand (2,000) pounds.

(d) A limited exclusion from the provisions of Section 13.05, Paragraph (8)(a) is authorized for Regulated Substances which are cleaning agents, provided, however, such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time. In no case shall Regulated Substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

(e) A limited exclusion from the provisions of Section 13.05, Paragraph (8)(a) is authorized for on-site storage of a maximum one-year supply of agricultural chemicals to be used for routine onsite agricultural operations, provided such substances are stored in standard approved packaging and such chemicals are applied to cropland under Best Management Practices as indicated by soil tests, agricultural experts or label directions approved by the United States Environmental Protection Agency (EPA) or the Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from other locations. This provision does not exempt such agricultural chemicals either stored on-site or brought in from other locations from the inventory, spill reporting and underground storage tank protection requirements of the WP Well Field Protection Overlay District.

(f) With the exception of residential use of heating fuels in tanks having a capacity equal to or less than five hundred (500) gallons, the underground storage of fuel and lubricants for vehicle operation and fuel for building and/or process heating in conjunction with permitted and conditional uses in this district shall be in tanks secondarily contained and monitored. Such

installations shall be subject to approval by the Community Development Administrator (“CDA”) or the CDA’s designee.

(g) Notwithstanding other provisions of this Article, non-conforming uses in this district presently utilizing underground storage tanks for fuel and lubricants for vehicle operations and fuel for building and/or process heating shall be permitted to replace existing tanks with those constructed as per the specifications of Section 13.05, Paragraph (8)(f) and not exceeding the capacity of existing tanks. Replacement of underground tanks for Regulated Substances other than the above noted fuels and lubricants is not permitted.

(h) As part of the findings required under Article #19 of this Zoning Code, prior to issuance of a Zoning Permit or a Certificate of Zoning Compliance, the Community Development Administrator or the CDA’s designee shall utilize the Hazard Potential Ranking System in Section 13.05, Paragraph (9) to assist in the determination of intensity of use within this district. No substitutes of a non-conforming use shall be permitted which result in an increase of the Hazard Potential Ranking on a parcel within this district. If the quantities of Regulated Substances initially exceed the de minimis quantities above, they shall be considered legally non-conforming. Such legally non-conforming quantities cannot be increased.

(9) Hazard Potential Rating System:

In order to assess the risk for potential groundwater contamination, a hazard rating has been developed for various activities categorized by their Standard Industrial Classification (SIC) Code. This rating is based on the kind of materials commonly associated with each use looking only at the most critical hydrologic factors.

Table 1 below lists the site hazard potential by land use activity (source) on a scale of one (1) to nine (9), with one (1) being a low hazard and nine (9) a very high hazard. This rating is based on the intrinsic hazards posed by different land uses and is related to the materials commonly used or stored on the site or the types and amounts of wastes commonly discharged.

Table II below lists the hazard potential determined on the basis of materials known to be used, stored, or disposed of at a specific site.

If the two tables referenced above indicate different site hazard potential ratings for the SIC-coded land use activity and the materials found on-site, the higher of the two scores is the rating for the site.

(10) Enforcement Provisions:

(a) Scope:

(1) The provisions of this section shall be effective within the WP Well Field Protection District, except as otherwise provided. This Ordinance provides for pollution control pertaining to the public water supply.

(2) Nothing contained in this section shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health, or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this Ordinance.

(b) Administration:

Except as otherwise provided herein, the Community Development Administrator for the City of Bellbrook or the CDA's designee, shall administer, implement, and enforce the provisions of this section.

(c) Notice of Violation:

(1) Any person found in violation of any provisions of this section, or any order, requirement, rule, or regulation issued under the authority of this section will be served with a written notice stating the nature of the violation and providing reasonable time for compliance; provided however, written notice of violation may be dispensed with under the conditions described in Section 13.05, Paragraph (10)(i)(2) and provided further, that if the Community Development Administrator or the CDA's designee

has previously promulgated a schedule of compliance or issued an order addressing the same type of or a similar violation and the time for compliance has passed, the Community Development Administrator or the CDA's designee may dispense with establishing another time period for compliance.

(2) The notice shall be served in the manner provided by law for the service of civil process. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax mailing address of the owner as shown on the county tax record.

(d) Inspections: Subject to applicable provisions of law, the Community Development Administrator or the CDA's authorized designee bearing proper identification, shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination pertaining to the requirements of this Ordinance to ensure that activities are in accordance with the provisions of this section. Upon request of the entity, which is the subject of the inspection, and if permitted by Ohio Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the Community Development Administrator or the CDA's designee for the above-stated purposes, the Community Development Administrator or the CDA's designee may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.

(e) Vandalism: No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, property, or equipment which is a part of or used in conjunction with water facilities of the City of Bellbrook and/or any other protected public water supply, or which results in the violation of the provisions of this Ordinance.

(f) Severability: A finding by any court or other jurisdiction that any part or provision of this Ordinance is invalid shall not affect the validity of any other part or provision of this Ordinance which can be given effect without the invalid parts or provisions.

(g) Handling of Regulated Substances:

(1) No person shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle," any Regulated Substance on public or private property within the City of Bellbrook or in any area under the jurisdiction of the City of Bellbrook except as provided by law, statute, ordinance, rule, or regulation.

(2) Any violation of this paragraph is hereby determined to be a nuisance.

(h) Underground Storage Tanks Declared to Constitute Dangerous Nuisances:

(1) With the exception of the residential use of home heating fuel in tanks having a capacity equal to or less than five hundred (500) gallons, and underground storage systems for accessory vehicle fuel, vehicle lubricants, fuel for building heating and fuel for process heating, any storage of Regulated Substances In underground storage tanks within the WP Well Field Protection Overlay District shall be deemed to constitute a dangerous nuisance. Every such nuisance must and shall be abated no later than five (5) years from the effective date of this Ordinance. Any tank not removed under Section (1) shall meet the requirements of Section (2) within five (5) years.

(2) With the exception of residential use of home heating fuel in tanks having a capacity equal to or less than five hundred (500) gallons, any underground storage tank systems for vehicle fuel and lubricants and fuel for building and/or process heating within the WP Well Field Protection Overlay District not removed within five (5) years from the effective date of this Ordinance must be secondarily contained and monitored in accordance with plans submitted to and approved by the Community Development Administrator and the City of Bellbrook Fire Department.

(i) Reporting Requirements:

(1) Regulated Substance Activity Inventory:

(A) Applicability:

(1) Except as provided in Section 13.05, Paragraph (10)(i)(1)(B), any owner or occupant of any land in the WP Well Field Protection

Overlay District at the effective date of this Ordinance, shall file a Regulated Substance Activity Inventory Report with the Community Development Administrator. Said Report shall be filed within one hundred and eighty (180) days of the effective date of this Ordinance and at twenty-four (24) month intervals thereafter.

(2) Except as provided in Section 13.05, Paragraph (10)(i)(I)(B), any new owner or occupant of any land in the WP Well Field Protection Overlay District shall file a Regulated Substance Activity Inventory Report prior to receipt of a Zoning Permit or a Certificate of Zoning Compliance and at twenty-four (24) month intervals following the date of occupancy. For purposes of this paragraph, "new" shall be defined as subsequent to the effective date of this Ordinance.

(3) Where a person owns, operates, or occupies more than one location, Regulated Substance Activity Inventory Reports shall be made for each location.

(4) Agricultural uses shall file a Regulated Substance Act Inventory Report within one hundred eighty (180) days of the effective date of this Ordinance and at twelve (12) month intervals thereafter. Regulated Substance Inventory Activity Reports for agricultural uses shall include total annual on-site application of Regulated Substances for the reporting property.

(B) Exclusions to Activity Inventory Reporting:

(1) Any exclusion set forth in this subsection shall apply provided that said exclusion does not substantially increase any risk or hazard to the public health or water supply, wells or well fields; and provided further that any spill, leak, discharge, or mishandling shall be subject to the provisions of Section 13.05, Paragraph (10)(i)2.

Any exclusions granted herein shall not remove or limit the liability and responsibility of any person or activity involved.

(2) A limited exclusion from Regulated Substance activity inventory reporting is hereby authorized for incidental uses of Regulated Substances provided the uses are limited as follows:

(a) The aggregate of Regulated Substances in use may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any time.

(b) The total use of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

(3) A limited exclusion from Regulated Substance activity inventory reporting is hereby authorized for non-routine maintenance or repair of property or equipment in the WP Well Field Protection Overlay District provided the uses are limited as follows:

(a) The aggregate of Regulated Substances in use may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

(b) The total use of Regulated Substances may not exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

(4) A limited exclusion from Regulated Substance activity inventory reporting is hereby authorized for Regulated Substances which are cleaning agents, provided however, such cleaning agents are packaged for personal or household use or are present in the same form and concentration

as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents

shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time. In no case shall Regulated Substances claimed under the exclusion Include hydrocarbon or halogenated hydrocarbon solvents.

(5) A limited exclusion from Regulated Substance activity Inventory reporting is hereby authorized for medical and research laboratory uses in the WP Well Field Protection Overlay District, provided however, Regulated Substances shall be stored, handled, or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate Inventory of Regulated Substances shall not exceed two hundred and fifty (250) gallons or two thousand (2,000) pounds.

(6) An exclusion from Regulated Substance activity inventory reporting is hereby authorized for the transportation of Regulated Substances through the WP Well Field Protection Overlay District provided that the transportation vehicle is in compliance with applicable local, state, and federal laws and regulations; provided that the regulated substance is fueling the transportation vehicle; and provided that the transportation vehicle is in continuous transit, making delivery or is stopped for a period of time not to exceed seventy-two (72) hours.

(7) A limited exclusion from Regulated Substance activity inventory reporting is hereby authorized for owners and occupants of single- or two- family residences, provided however, the storage and use of Regulated Substances are related to the maintenance of the residence or vehicles under control of the occupant and provided waste Regulated Substances, are appropriately disposed of to a permitted solid

waste facility or a permitted publicly-owned wastewater treatment works.

(2) Spills, Leaks or Discharges:

(A) Any person with direct knowledge of a spill, leak, or discharge of a Regulated Substance within the WP Well Field Protection Overlay District shall, if such spill, leak, or discharge escapes containment or contacts a non-impervious ground surface and is not immediately and completely remediated, give notice to the Public Works Director of the City of Bellbrook or the operator on duty at the affected or potentially affected water treatment facility by telephone within thirty (30) minutes. The notification shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations as required by law.

(B) The application of agricultural chemicals, fertilizers, mineral acids, organic sulphur-compounds, etc. used in routine agricultural operations, including plant nutrients and crop protection materials, applied under Best Management Practices as indicated by soil tests, agricultural experts, or label directions approved by the United States EPA or the Ohio Department of Agriculture, shall not be considered a spill, leak, or discharge subject to the reporting provisions of this paragraph.

(C) Any entity or person who spills, leaks or discharges said substance(s) shall be liable for any reasonable expense, loss, or damages incurred by the City of Bellbrook in response to such an incident, in addition to the amount of any fines imposed on account thereof under state and federal law. The entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of recurrence of such spills, leaks, or discharges as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.

(3) Falsifying Information:

No person shall make any false statement, representation, or

certification in any report or other document filed or required to be maintained pursuant to this Ordinance.

(4) Retention of Records:

Any reports or records compiled or submitted pursuant to this paragraph shall be maintained by the user for a minimum of five (5) years, or so long as enforcement or judicial proceedings are being pursued, whichever is longer.

(j) Public Water Supply Protection Authorities:

(1) Application: If any activity or use of Regulated Substance is deemed by the Community Development Administrator to pose a real and present danger of contaminating surface and/or groundwater which would normally enter the public water supply, the Community Development Administrator, in accordance with Section 713.13 of the Ohio Revised Code, is authorized to:

(A) Cause cessation of said activity or use of the Regulated Substance;

(B) Require the provision of administrative controls and/or facilities sufficient to mitigate said danger; and/or

(C) Cause the provision of pollution control and/or abatement activities.

(2) Considerations: When considering the exercise of any of the above authorities or actions, the Community Development Administrator shall consult with the appropriate administrative official of any potentially affected protected public water supply. Such consultation shall determine what measures need to be taken to ensure the public water supply is reasonably and adequately protected from contamination for the present and the future. The Community Development Administrator may take into consideration any evidence represented by the entity regarding cost effectiveness and the economic effectiveness and the economic impact imposed by the requirements or actions.

(3) Exemption of Certain Regulated Substances:

The Community Development Administrator is authorized to exclude certain Regulated Substances, that pose no threat to groundwater, from the provisions of these regulations. Prior to authorizing the exemption of

any Regulated Substance, the Community Development Administrator shall have such request for exemption reviewed by the Environmental Advisory Board. The recommendation of the Environmental Advisory Board shall be binding on the Community Development Administrator.

(4) Technical Consultants: Upon application for a Certificate of Zoning Compliance and/or Occupancy Certificate for a use within the WP Well Field Protection Overlay district, the Community Development Administrator may employ such technical expertise as needed to ensure compliance with the provisions of these regulations. All costs incurred in the compliance review process shall be passed through to the applicant and shall be in addition to those fees normally charged by the City of Bellbrook to review an application for a Certificate of Zoning Compliance and/or Occupancy Certificate.

(k) Well Field Protections Board:

(1) Appeals: Any person may appeal an action of the Community Development Administrator made pursuant to this Ordinance as provided for under Article #20 by filing a Notice of Intent to Appeal within twenty (20) days of said action and a Statement of Appeal within thirty (30) days of the date that the order being appealed was issued. A Notice of Intent to Appeal shall include at a minimum, name, address, telephone number, date, and a statement of intent of appeal. A Statement of Appeal shall include all information contained in the Notice of Intent to Appeal, a description of the nature of the appeal, and any pertinent documentation.

(2) Appeals Board: The Board of Zoning Appeals of the City of Bellbrook shall hear Well Field Protection Overlay District appeals. The Board shall have the authority to take appeals, investigate matters related to said appeals, deny, uphold, or otherwise modify or waive, the Community Development Administrator's actions on a case-by-case basis.

(1) Penalties for Violations:

Vandalism: A violation of the provisions of Section 13.05, Paragraph (10)(e), beyond the time limit for compliance set forth by the, Community Development Administrator's Notice of Violation, or the compliance schedule established by the, Community Development Administrator shall constitute a minor misdemeanor punishable as provided in Article #19 of the Zoning Code.

TABLE ICONTAMINENT HAZARD POTENTIAL RANKING - CLASSIFIED BY SOURCE

SIC NUMBER	DESCRIPTION OF WASTE SOURCE	HAZARD POTENTIAL INITIAL RATING
01	AGRICULTURAL PRODUCTION-CROPS	1-2
02	AGRICULTURAL PRODUCTION-LIVESTOCK	
021	Livestock, except Dairy, Poultry & Animal Specialties	(5 for Feedlots)
024	Dairy Farms	4
025	Poultry & Eggs	4
027	Animal Specialties	2-4
029	General Farms, primarily Livestock	2
10	METAL MINING	
101	Iron Ores	4
102	Copper Ores	6
103	Lead and Zinc Ores	5
104	Gold and Silver Ores	6
105	Bauxite & other Aluminum Ores	5
106	Ferroalloy Ores except Vanadium	5
108	Metal Mining Services	4
1092	Mercury Ore	6
1094	Uranium-Radium-Vanadium Ores	7
1099	Metal Ores Not Elsewhere Classified	5
11	ANTHRACITE MINING	7
12	BITUMINOUS COAL AND LIGNITE MINING	7

13	OIL AND GAS EXTRACTION	
	131 Crude Petroleum and Natural Gas	7
	132 Natural Gas Liquids	7
	1381 Drilling Oil and Gas Wells	6
	1382 Oil and Gas Field Exploration Svcs	1
	1389 Oil and Gas Field Svcs Not Elsewhere Classified	Var.

14	MINING AND QUARRYING OF NON-METALLIC MINERALS, EXCEPT FUELS	
	141 Dimension Stone	2
	142 Crushed & Broken Stone, Inc Riprap	2
	144 Sand & Gravel	2
	145 Clay, Ceramic & Refractory Minerals	2-5
	147 Chemical & Fertilizer Mineral Mining	4-7
	148 Nonmetallic Minerals Svcs	1-7
	149 Misc. Nonmetallic minerals, Except Fuels	2-5

16	CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION	
	1629 Heavy Construction, not Elsewhere Classified (Dredging, Especially in Salt Water)	4

20	FOOD AND KINDRED PRODUCTS	
	201 Meat Products	3
	202 Dairy Products	2
	203 Canned & preserved Fruits/Veges	4
	204 Grain Mill Products	2

Article #13, WO, WP, Well Field Protection Districts

205	Bakery Products	2
206	Sugar & Confectionery Prods	2
207	Fats & Oils	3
208	Beverages	2-5
209	Misc Food Preparations and Kindred Products	2

22 TEXTILE MILL PRODUCTS, ALL EXCEPT LISTING BELOW

223	Broad Woven Fabric Mills Wool (including dyeing and finishing)	6
226	Dyeing and Finishing Textiles, except Wool Fabrics and Knit Goods	6
2295	Coated Fabrics, Not Rubberized	6

24 LUMBER & WOOD PRODUCTS, EXCEPT FURNITURE

241	Logging Camps & Logging Contractors	2
242	Sawmills & Planing Mills	2
2435	Hardwood Veneer & Plywood	4
2436	Softwood Veneer & Plywood	4
2439	Structural Wood Members Not Elsewhere Classified (laminated wood glue)	3
2491	Wood Preserving	5
2492	Particle Board	4
2499	Wood Products, Not Elsewhere Classified	2-5

26 PAPER & ALLIED PRODUCTS

261	Pulp Mills	
262	Paper Mills Except Building Paper Mills	
263	Paperboard Mills	

CHEMICALS AND ALLIED PRODUCTS

2812	Akalies & Chlorine	7-9
2613	Industrial Gases	-
2616	Inorganic Pigments	3-8
2619	Industrial Inorganic Chemicals, Not Elsewhere Classified	3-9
2621	Plastic Materials, Synthetic Resins & Nonvulcanizable Elastomers	6-8
2622	Synthetic Rubber (Vulcan. Elastomers)	6-8
2823	Cellulose Man Made Fibers	6-8
2824	Synthetic Organic Fibers, Except Cellulose	6-8
2831	Biological Products	6-9
2833	Medicinal Chemicals & Botanical Products	3-8
2834	Pharmaceutical Preparations	6-9
2841	Soap & Other Detergents, Except Specialty Cleaners	4-6
2842	Specialty Cleaning, Polishing & Sanitation Preparation	3-8
2843	Surface Active Agents, Finishing Agents, Sulfonated Oils & Assistants	6-8
2844	Perfumes, Cosmetics & Other Toilet Preparations	3-6
2851	Paints, Varnishes, Lacquers, Enamels & Allied Products	5-8
2861	Gum & Wood Chemicals	5-8
2865	Cyclic (coal tar), Crudes & Cyclic Intermediates, Dyes & Organic Pigments	

Article #13, WO, WP, Well Field Protection Districts

	(Lakes and Toners)	6-9
2869	Industrial Organic Chemicals Not Elsewhere Listed	3-9
2873	Nitrogenous Fertilizers	7-8
2874	Phosphoric Fertilizers	7-8
2875	Fertilizer Mixing Only	5
2879	Pesticides & Agricultural Chemicals, Not Elsewhere Listed	5-9
2891	Adhesives & Sealants	5-8
2892	Explosives	6-9
2893	Printing Ink	2-5
2895	Carbon Black	1-3
2899	Chemicals and Chemical Preparations, Not Elsewhere Listed	3-9

29 PETROLEUM REFINING AND RELATED INDUSTRIES

291	Petroleum Refining	8
295	Paving & Roofing Materials	7
299	Misc. Petroleum & Coal Products	7

30 RUBBER & MISCELLANEOUS PLASTICS PRODUCTS

301	Tires & Inner Tubes	6
302	Rubber & Plastic Footwear	6
303	Reclaimed Rubber	6
304	Rubber, Plastic Hose & Belting	4
306	Fabricated Rubber Products, Not Elsewhere Classified	4

31 LEATHER AND LEATHER PRODUCTS

311	Leather Tanning & Finishing	8
	(Remaining Three-Digit Codes)	1-3

32	STONE, CLAY, GLASS AND CONCRETE PRODUCTS	
	321 Flat Glass	4
	322 Glass, Glassware, Pressed Or Blown	4
	324 Cement, Hydraulic	3
	3274 Lime	3
	3291 Abrasive Products	3
	3292 Asbestos	3
	3293 Gaskets, Packing & Sealing Devices	

33	PRIMARY METAL INDUSTRIES (EXCEPT AS NOTED BELOW)	3
	3312 Blast Furnaces, Steel Works, Rolling & Finishing Mills	6
	333 Primary Smelting & Refining of Nonferrous Metals	7

34	FABRICATED METAL PRODUCTS, EXCEPT MACHINERY TRANSPORTATION EQUIPMENT, EXCEPT AS NOTED BELOW	5
	347 Coating, Engraving & Allied Svcs	8
	3482 Small Arms Ammunition	7
	3483 Ammunition, Except for Small Arms, Not Elsewhere Classified	7
	3489 Ordance & Accessories, Not Elsewhere Classified	7
	349 Misc. Fabricated Metal Products	3-6

35	MACHINERY, EXCEPT ELECTRICAL	5-7
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36	ELECTRICAL & ELECTRONIC MACHINERY, EQUIPMENT & SUPPLIES (EX. AS NOTED BELOW)	
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Article #13, WO, WP, Well Field Protection Districts

3691 Storage Batteries 8
 3692 Primary Batteries, Dry & Wet 8

37 TRANSPORTATION EQUIPMENT 5-8

38 MEASURING, ANALYZING & CONTROLLING
 INSTRUMENTS, PHOTOGRAPHIC, MEDICAL &
 OPTICAL GOODS; WATCHES & CLOCKS
 (EXCEPT AS NOTED BELOW) 4-6
 386 Photographic Equipment & Supplies 7

39 MISCELLANEOUS MANUFACTURING INDUSTRIES 3-7

49 ELECTRICAL, GAS & SANITARY SERVICES
 491 Electric Services 3-5
 492 Gas Production & Distribution 3
 494 Water Supply 2
 4952 Sewage Systems 2-5
 4953 Refuse Systems (Landfills) 5-9
 496 Steam Supply 2-4

TABLE IICONTAMINENT HAZARD POTENTIAL RANKING CLASSIFIED BY TYPE

<u>DESCRIPTION</u>	<u>HAZARD POTENTIAL INITIAL READING</u>	<u>ID* NUMBER</u>
SOLIDS		
Ferrous Metals	1-4	1100
Non-Ferrous Metals	1-7	1200
Resins, Plastics & Rubbers	2	1300
Wood & Paper Materials(except as noted below)	2	1400
Bark	4	1401
Textiles & Related Fibers	2	1500
Inert Materials (except as noted below)	2	1600
Sulfide Mineral-Bearing Mine Tailings	6	1601
Slag & other Combustion Residues	5	1602
Rubble, Construction & Demolition Mixed Waste	3	1603
Animal Processing Wastes(Except as noted below)	2-4	1700
Processed Skins, Hides & Leathers	6	1701
Dairy Wastes	4	1702
Live Animal Wastes-Raw Manures (Feedlots)	5	1703
Composts of Animal Wastes	2-4	1704
Dead Animals	5	1705
Edible Fruit & Vegetable Remains	2-3	1800
LIQUIDS		
Organic Chemicals (must be chemically classified)		2000
Aliphatic (Fatty) Acids	3-5	2001
Aromatic (Benzene) Acids	7-8	2002
Resin Acids	-	2003
Alcohols	5-7	2004
Aliphatic Hydrocarbons (petroleum derivatives)	4-6	2005
Aromatic Hydrocarbon (Benzene derivatives)	6-8	2006
Selfonated Hydrocarbons	7-8	2007
Halogenated Hydrocarbons	7-9	2008

Article # 13, WO, WP Well Field Protection Districts

Alkaloids	7-9	2009
Aliphatic Amines & Salts	1-4	2010
Asalines	6-8	2011
Pyridines	2-6	2012
Phenols	7-9	2013
Aldehydes	6-8	2014
Ketones	6-8	2015
Organic Sulphur Compounds (Sulfides, Mercaptors)	7-9	2016
Organometallic Compounds	7-9	2017
Cyanides	7-9	2018
Thiocyanides	2-6	2019
Sterols		2020
Sugars & Cellulose	1-4	2021
Esters	6-8	2022
Inorganic Chemicals (must be chemically classified)		2100
Mineral & Metal Acids	5-8	2101
Mineral & metal Bases	5-8	2102
Metal Salts, including heavy metals	6-9	2103
Oxides	5-8	2104
Sulfides	5-8	2105
Carbon or Graphites	1-3	2106
Other Chemical Process Wastes not previously listed (must be chemically classified)		2200
Inks	2-5	2201
Dyes	3-8	2202
Paints	5-8	2203
Adhesives	5-8	2204
Pharmaceutical Wastes	6-9	2205
Petrochemical Wastes	7-9	2206
Metal Treatment Wastes	7-9	2207
Solvents	6-9	2208
Agricultural Chemicals (pesticides, herbicides, fungicides, etc)	7-9	2209
Waxes & Tars	4-7	2210
Fermentation & Culture Wastes	2-5	2211

Article # 13, WO, WP Well Field Protection Districts

Oils, including gasoline, fuel, oil, etc.	5-8	2212
Soaps & detergents	4-6	2213
Other organic or Inorganic Chemicals includes radioactive wastes	4-8	2300
Conventional Treatment Process Municipal Sludges from Biological Sewage Treatment	4-8	2301
from Water Treatment & Conditioning Plants (must be chemically classified)	2-5	2302

*ID Number is for identification of waste types in the Reporting Form.

1. Classification based on material in Environmental Protection Agency Publication 670-2-76-024, pp. 79-85, prepared by Arthur D. Little, Inc., and published in 1975.
2. For individual material ranking, refer to solubility-tonicity tables prepared by Vernar, Inc., for the Environmental Protection Agency (source MDNR, June 1980).

Source: WMSRDC, A Pollutant Nature Sampling Plan for Groundwater Contamination in Region 14 (Muskegon, MI: West Michigan Shoreline Regional Development Commission, November 1980).

ARTICLE 14 OLD VILLAGE DISTRICT

14.01 GENERAL

This section is intended to create the Old Village District and to establish procedures for control, development, and regulation of this district along with a master design plan and architectural controls specific to the designated area. These controls are to be in addition to existing planning and zoning controls and do not replace the underlying zoning pattern but are supplemental in nature. Where there is conflict between these controls and those of the underlying district, the regulations of this section shall prevail.

It is also the intent of this Ordinance to recognize the history of the area as well as human values and basic property rights. No attempt is made to create a situation of undue financial strain upon any business or resident.

As such, the intent of this Ordinance is to regulate demolition and guide new development and construction in the Old Village District. In no manner is this Ordinance to be interpreted to interfere with the day-to-day activities and normal periodic maintenance of any home or structure.

Council shall adopt a resolution containing guidelines (hereinafter referred to as the "Guidelines") for implementing this Ordinance and carrying out its intent. A board to be known as the Old Village District Review Board, established in accordance with Section 14.13 below, shall administer this Ordinance in accordance with the Guidelines as adopted by Council and as amended from time to time. In case of conflict between the Guidelines and any provision of this Ordinance, the Ordinance provisions shall prevail.

14.02 DESIGNATION OF DISTRICT

The area to be covered by these regulations is shown on the Official Zoning Map. The boundaries are generally described as follows: bounded on the west by Little Sugarcreek, the south by the centerline of West South Street and East South Street, the east by the existing corporate line and the north by a line running along the southern and western boundary of Bellbrook Farms Subdivision just south of Upper Hillside Drive, extending across Main Street approximately 1300 feet west of Main Street then south to a point approximately 500 feet north of the centerline of Franklin Street, then west to the Little Sugarcreek.

Where any question arises as to exact location of the district boundaries, the City Council shall interpret the district boundaries.

14.03 PERMITTED PRINCIPAL USES

All uses permitted within the underlying zoning district.

14.04 ACCESSORY USES

All accessory uses allowed in the underlying zoning districts are permitted.

14.05 **CONDITIONAL USES**

All conditional uses allowed in the underlying zoning districts are permitted.

14.06 **NON-CONFORMING BUILDING**

The lawful use of any dwelling, building or structure and of any land or premises, as existing and lawful at the time of enacting this Zoning Code or amendments thereto, may be continued, although such use does not currently conform with the provisions of this Zoning Code or amendments thereto, but if any such non-conforming use is voluntarily discontinued, for one (1) year-or more, any future use of such land must be in conformity with Article 14 of the Zoning Code.

14.07 **YARD REQUIREMENTS**

The regulations of the underlying zoning districts shall apply.

14.08 **PARKING REQUIREMENTS**

Parking spaces shall be provided in accordance with the provisions of Zoning Code Section 18.16.

14.09 **OFF-STREET LOADING**

Off-street loading spaces shall be provided in accordance with the provisions of Zoning Code Section 18.15.

14.10 **SIGNS**

Signs shall be regulated in accordance with provisions of Zoning Code Section 18.20B.

14.11 **STANDARDS**

The significant architecture of the Old Village District is generally classified as a simple Victorian with modifications.

There are numerous buildings that do not fall within this broad description, but the general architectural character of the Old Village District is Victorian in nature and the standards are aimed at preserving existing examples and establishing parameters which will allow acceptable and pleasing contemporary interpretation of the standards.

(1) Structural Proportion:

The Old Village District architecture is characterized by two-story buildings with tall, narrow doors and windows and in earlier examples, slightly squatter

proportions. New buildings shall conform generally to the proportions of adjoining buildings and all buildings, either new or remodeled shall have windows and doors of proportions similar to adjoining buildings. Roof slopes shall also be similar to adjoining buildings.

(6) Foundations:

Foundation walls of the mid-19th century were of local limestone. Acceptable foundation materials shall be limited to limestone, brick, poured concrete or other material which is similar in appearance to the original foundation material.

(6) Exterior Walls:

The exterior walls of the period were of brick or narrow wood siding. Wall surface construction shall employ these materials or a modern construction material which creates the same effect. Cosmetic treatment using such materials as asphalt shingles which simulate brick or stone is prohibited.

(4) Roof Materials:

Roofing materials may consist of metal, slate, asphaltic shingles, or wood shingles. Prohibited materials include aluminum shingles formed to look like wood, asphalt roll roofing and simulated cosmetic materials.

(5) Chimneys:

Chimneys and flues shall be of brick or stucco masonry or other material which is compatible with the architecture of the period. Metal chimneys simulating masonry construction are prohibited.

(6) Windows and Door Lintels:

Original lintels were stone, wood, or brick. Where feasible, lintels shall be restored or compatible stone, brick, or wood shall be used in remodeling, additions, or new construction(s).

(7) Porches and Outbuildings:

The construction of porches or outbuildings which do not conform to these standards or to the character of the main building is prohibited.

14.12

EXCLUSIONS AND CONTROLS NOT APPROPRIATE

Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any property, area, or object within the Old Village District. For the purposes of

this Ordinance, a modification of a window or door which causes the area of the opening to vary by no more than ten percent (10%) from its original size shall be ordinary maintenance or repair and is not regulated.

Neither the exterior color nor the interior arrangement of the building and the use to be made thereof, shall be considered by the Village Review Board in determining whether an application complies with the provisions of this Ordinance, provided such use is permitted by the applicable zoning designation.

14.13

OLD VILLAGE DISTRICT REVIEW BOARD

The Old Village District Review Board (the "Board") shall consist of five (5) members to be appointed by Council.

(1) One (1) member shall be a resident of said district.

(2) One (1) member shall own real property at a location within the district and operate a business at that location. This member need not be a City resident. If a qualified person cannot be found to fill this position, then Council may fill the position by appointing any City resident who has the requisite interest and skill.

(3) Three (3) members shall be residents of the City who shall serve in at-large positions. They need not live in the district.

The City Manager shall retain the services of a registered architect to advise the Old Village District Review Board. The City Manager shall confer with the Old Village District Review Board and obtain the approval of Council before making the appointments.

The first members appointed, and each succeeding member shall be appointed to specific capacities on the Board to be designated as: at-large member, resident member, business member.

The terms shall be three (3) years. However, the first members appointed shall serve respectively for the following terms: two (2) for one (1) year; two (2) for two (2) years and two (2) for three (3) years.

Vacancies on the Old Village District Review Board shall be filled for the unexpired terms of the members whose offices have become vacant in the same manner as is provided for the appointment of such members.

In the event a Board member ceases to meet the designated qualifications for appointment, the member's position on the Board is automatically terminated and a successor member meeting those qualifications shall be appointed by the Council. Board members serve at the pleasure of Council.

The Old Village District Review Board shall make recommendations to the Board of Zoning Appeals on applications for variance from the guidelines and purposes of this Ordinance.

The Old Village District Review Board shall not have quasi-judicial jurisdiction over applications for variance.

14.14 **APPLICATION FOR OLD VILLAGE DISTRICT PERMIT AND INFORMATION REQUIRED**

(1) Application for Old Village District Permit:

Old Village District permits are required as set forth in Section 14.16 hereof. This Old Village District permit shall be obtained by application to the Community Development Administrator prior to commencement of construction and is required in addition to any other required zoning permit or building permit.

(2) In addition to any other information required by the Zoning Code and related regulations, seven sets of scale drawings of all affected exterior elevations accompanied by a written description setting forth the scope of work to be done, materials to be used, color renderings of modifications, and an appropriate presentation of such details as door and window design shall accompany the applications.

These documents as amended and accepted shall be official. Any deviation without written permission by the Community Development Administrator shall be cause for revocation of all permits including any building permit.

14.15 **REVIEW PROCEDURE**

(1) Application Review by Community Development Administrator:

The Community Development Administrator shall determine whether the subject property meets all other requirements of this Ordinance and shall present his or her findings to the Old Village District Review Board.

Signs meeting the provisions of Article #18, Section 18.20B, Permitted Signs (Old Village District) shall be exempt from a public hearing but shall require the written approval of the Community Development Administrator.

(2) Application Review by Old Village District Review Board:

(a) Hearing: The Old Village District Review Board shall notify the applicant of a time and place of a hearing on the application not less than ten (10) days before the date of the hearing. The hearing shall be held at the next available, regularly scheduled meeting not more than thirty (30) days following the delivery of the application and supportive materials to the Community Development Administrator. Public notice shall be required.

(b) Action on Application: The Board is encouraged to decide on the night of the hearing; however, it is required that

(1) Within ten (10) business days after the hearing the Board shall recommend approval, recommend approval with modifications, or recommend denial of the application. This recommendation shall be based upon a careful review of the record and application, considering the Guidelines and purposes of this Ordinance, and it shall comply with the following standards:

(A) If the Board finds that the proposed changes conform with the Guidelines then the application shall be recommended for approval.

(B) If the Board finds that the proposed changes are not in conformance with the Guidelines and that strict application of the Guidelines would cause practical difficulty in the viable use of the property, then the Village Review Board shall recommend the approval of the application with such modifications as will permit reasonable use of the property while conforming as closely with the Guidelines as prudence permits.

(C) If the Board finds that the proposed changes are not in conformance with the Guidelines and that full conformance would not cause the applicant practical difficulty in the viable use of the property, then it shall recommend denial of the application.

(2) Written notification of such recommendation shall be given to the Community Development Administrator, applicant, and Clerk of Council. In the case of recommendation of approval with modifications, a list of these modifications shall be forwarded to the Community Development Administrator and the Clerk of Council. If the applicant accepts these suggested modifications, the applicant shall revise the application and supportive material accordingly and file them with the Community Development Administrator who shall then issue the necessary permits.

(3) A majority of the members of the Board shall constitute a quorum; however, no application shall be recommended for denial except by the affirmative vote of a majority of the entire Board.

(4) If an application is recommended for denial, the Board shall set forth the reasons for such recommendation in writing. The Board shall also make recommendations as to what changes would be required for recommended approval.

(5) If the application is recommended for denial, the application may be refiled upon written certification by the applicant that such resubmission is based upon modification of the proposal with the objective of:

(A) Conforming with the Old Village District Review Board recommendations, or

(B) Proposing significant change in conditions or other pertinent factors which were not present during the previous reviews.

Such resubmission shall be heard at the next available, regularly scheduled meeting not more than thirty (30) days following the delivery of the application and supportive materials to the Community Development Administrator or, alternatively, the application may be forwarded to the Board of Zoning Appeals (“BZA”) for consideration with no modifications at the request of the applicant.

14.16

PERMIT REQUIRED

Permits are required for the following activities within the Old Village District:

(1) Demolition of all or part of a main building.

(2) Structural modifications which substantially destroy a significant exterior architectural feature of a main building constructed prior to 1945.

(3) Construction of a new main building.

(4) Erection of any sign regulated by Article 18, Section 18.20B of these Zoning Regulations.

14.17

APPEALS PROCEDURE

(1) If the application is recommended for denial or recommended for approval with modifications, the applicant may request a second hearing before the Old Village District Review Board to show modifications complying with the Guidelines and purposes of this Ordinance or the applicant may choose to forward the application to the Board of Zoning Appeals for a public hearing. The appeal and hearing request shall be made in writing and delivered directly to the Community Development Administrator within thirty (30) days of the Old Village District Review Board’s recommendation.

(2) The Board of Zoning Appeals shall schedule a public hearing at its next regularly scheduled meeting, which shall not be more than thirty (30) days after the hearing request unless otherwise agreed by City Staff and the applicant.

(3) An applicant who is dissatisfied with the BZA’s decision may appeal the BZA’s determination to the Greene County Common Pleas Court, within thirty (30) days of the decision, pursuant to Ohio Revised Code Sections 2505 and 2506.

14.18**SPECIAL PROCEDURE FOR DEMOLITION APPLICATIONS**

In its deliberations upon an application for demolition of all or part of a main building within the Old Village District, the Old Village District Review Board shall consider alternatives to demolition. If the Board finds cause to believe that there are feasible and prudent alternatives to demolition, then the Board shall so inform the applicant and delay its decision on the application for no more than 180 days. During the period of the delay, the applicant shall make a good faith investigation of such alternatives and submit a written report to the Old Village District Review Board. Thereafter, the Board shall consider the entire record and make its recommendation to the Community Development Administrator. If the Old Village District Review Board finds that there are feasible and prudent alternatives to demolition and that the proposed demolition would be contrary to the intent of this Ordinance, then the application shall be recommended for denial. Otherwise, the application shall be recommended for approval.

14.19**REVIEW OF REQUESTS FOR A VARIANCE**

The Old Village District Review Board shall review all applications for a variance from underlying zoning regulations for properties within the district and shall advise the Board of Zoning Appeals regarding the applicability of the Guidelines. The Old Village District Review Board shall also give its recommendation regarding disposition of the request. If the request requires a permit under Section 14.16 above, then that requirement is cumulative to the requirement for a variance, and work may not proceed until approvals have been received from the Board of Zoning Appeals.

GUIDELINES FOR THE OLD VILLAGE DISTRICT

BELLBROOK, OHIO

1.0 Introduction

The "Old Village of Bellbrook", which is also known as the Old Village District, is one of the most attractive villages in southwestern Ohio, an identity which has been important in attracting new residents and businesses. Facing rapid growth and expansion possibilities, the City of Bellbrook wants to retain that identity while encouraging a strong, healthy economy and a secure, desirable place to live. Through the review process embodied in Article 14 of the Zoning Code and these Guidelines, the City accomplishes both goals. Bellbrook has maintained a review process since adopting the 1972 Zoning Code; these guidelines are part of the updating of those original zoning provisions.

The following Guidelines are the interpretive explanation and the decision-making guide for Bellbrook Zoning Code, Article 14. They are designed to assist owners, residents, architects, interested citizens, and the Old Village District Review Board in determining the appropriateness and the direction of the physical growth in a very special district: the Old Village District. Important to these goals, is the proper maintenance of existing properties, guidance in new construction, and the coherent development of the district.

2.0 The Old Village District

The Old Village District is a distinct geographical area set roughly between Little Sugar Creek, the flood plains, and the northern hill. This district contains a harmonious combination of 1800's and post-World War II development that forms the unique character of Bellbrook.

3.0 The Old Village District Review Board

The Old Village District Review Board ("OVDRB") consists of five (5) people who are convened to serve two general functions:

- (1) provide guidance and assistance in the development of the district and the accomplishment of the purposes listed in Article 14; and
- 2) preserve the historic architecture found within the district. The ODVRB is distinct from the Planning Board and the Board of Zoning Appeals ("BZA") which serve other purposes. Both the OVDRB and the City's Community Development Administrator ("CDA")_are ready with help and assistance for all property owners.

4.0 Certificate of Appropriateness

The Guidelines adopted by Council in conjunction with Article 14 of the Zoning Code requires the issuance of a Certificate of Appropriateness prior to undertaking certain types of activities within the Old Village District. The Community Development Administrator_makes an initial determination of the

necessity for a Certificate of Appropriateness at the time that an application is made for a zoning permit. If the Community Development Administrator believes that a Certificate of Appropriateness is required, then the Community Development Administrator will provide the applicant with the requisite form(s) and will explain the requirements. The Certificate of Appropriateness is required for the following activities in the Old Village District:

- Demolition of all or part of a main building.
- Structural modifications which substantially destroy a significant exterior architectural feature of a main building constructed prior to 1945.
- Construction of a new main building.
- Erection of any sign regulated by Article 18.20B of the Zoning Regulations.

4.1 Demolition

Under Section 19.01 of the Zoning Code, no demolition is permitted within the City of Bellbrook without a zoning permit. When an application for such a zoning permit indicates that the property is located within the Old Village District, the Community Development Administrator will inform the applicant that a Certificate of Appropriateness is required from the Old Village District Review Board.

It is the intent of these Guidelines and the related provisions of the Zoning Code to discourage demolitions in the Old Village District when possible. If the Old Village District Review Board finds cause to believe that there are feasible and prudent alternatives to demolition, then the ODVRB will recommend to the Community Development Administrator that the request for a Certificate of Appropriateness will be denied. The Old Village District Review Board and/or the Community Development Administrator may consult with an appraiser, a building contractor, and/or other professionals for information required in making this determination. The form(s) that the applicant must submit to the Community Development Administrator when a Certificate of Appropriateness is required may assist the Old Village District Review Board in making its recommendation. If the forms and information submitted by the applicant in connection with the application for a Certificate of Appropriateness suggest that the property could be repaired and leased at an annual rent which would produce a gross return of ten percent (10%) on the owner's investment, then the Old Village District Review Board may conclude that there is at least one feasible and prudent alternative to demolition.

If the Old Village District Review Board determines that there are feasible and prudent alternatives to demolition, it will inform the applicant accordingly and will afford the applicant a period of 180 days to file a written response. Upon receiving that response, the Old Village District Review Board shall reconsider the matter based upon the entire record then on file. If the Old Village District Review Board makes a final determination that there are no feasible and prudent alternatives to demolition, then it will inquire into any new use to which the applicant may propose to put to the property following demolition. If the Old Village District Review Board determines that the objectives of Article 14 of the

Zoning Code would be served best by a conversion of the land to the proposed new use, then it may recommend demolition.

4.2 Structural Modifications

A Certificate of Appropriateness is required for structural modifications of main buildings constructed in the Old Village District prior to 1945, if a significant exterior architectural feature will be substantially destroyed. At the time of application for a zoning permit, the Community Development Administrator will make an initial determination as to whether a Certificate of Appropriateness is required. If it is deemed to be required, then the Community Development Administrator will provide the requisite form(s) to the applicant for completion by the applicant. Issuance of the zoning permit will be withheld pending approval of the Certificate of Appropriateness.

The Old Village District Review Board will only recommend approval of the request for structural modifications if it finds that a denial of the request would likely cause practical difficulty in applicant's viable use of the property. In such a case the Old_Village District Review Board will recommend approval of the request with such conditions as it believes appropriate for minimizing the loss to the Old Village District.

A modification to a window or door which would cause the area of the opening to vary by more than ten percent (10%) from its original construction size will be deemed to substantially destroy a significant exterior architectural feature and therefore requires a Certificate of Appropriateness. It will be assumed that the original size was the same as the size at present unless there is evidence to show otherwise.

If the Old Village District Review Board should recommend refusal of a request for a structural modification, it shall notify the Community Development Administrator accordingly, and the Community Development Administrator shall provide the applicant with a written finding describing the feature involved and stating how the proposed modification would destroy that feature.

4.3 Construction of a New Main Building

Upon receipt of a request for a zoning permit for construction of a new main building in the Old Village District, the Community Development Administrator will furnish the applicant with the requisite form(s) and a copy of these Guidelines. The applicant will be advised regarding the mandatory standards of Section 14.11 of the Bellbrook Zoning Code, as set forth in Section 4.3.1 below, as well as the voluntary guidelines set forth in Section 4.3.2 below. If the applicant's request meets the mandatory standards, then the Old Village District Review Board shall recommend will approval.

4.3.1 Mandatory Standards

The general architectural character of Bellbrook is Victorian, and the standards are aimed at preserving existing examples and establishing parameters which will allow acceptable and pleasing contemporary interpretation of the standards.

1. Structural Proportions

Bellbrook architecture is characterized by two-story buildings with tall, narrow doors and windows and in earlier examples slightly squatter proportions. New buildings shall conform generally to the proportions of adjoining buildings and all buildings, either new or remodeled shall have windows and doors (or] of proportions similar to adjoining buildings. Roof slopes shall also be similar to adjoining buildings.

2. Foundations

Foundation walls of the mid-19th century were of local limestone. Acceptable foundation materials shall be limited to limestone, brick, poured concrete, or other material which is similar in appearance to the original foundation material.

3. Exterior Walls

The exterior walls of the period were of brick or narrow wood siding. Wall surface construction shall employ these materials or a modern construction material which creates the same effect. Cosmetic treatment using such materials as asphalt shingles which simulate brick or stone are prohibited.

4. Roof Materials

Roofing materials may consist of metal, slate, asphaltic shingles, or wood shingles. Prohibited materials include aluminum shingles formed to look like wood, asphalt roll roofing, and simulated cosmetic materials.

5. Chimneys

Chimneys and flues shall be of brick or stucco masonry or other material which is compatible with the architecture of the period. Metal chimneys simulating masonry construction are prohibited.

6. Windows and Door Lintels

The original lintels were stone, wood, or brick. Where feasible, lintels shall be restored, or compatible stone, brick or wood shall be used in remodeling, additions, or new construction.

7. Porches and Outbuildings

The construction of porches or outbuildings which do not conform to these standards or to the character of the main building are prohibited.

4.3.2 Voluntary Compliance

Owners of properties within the Old Village District are encouraged to observe the following voluntary guidelines when building or remodeling.

1. Scale.

The buildings within the Old Village District are small to medium-sized residential, institutional, and commercial structures. Bellbrook, as a particularly pedestrian community, needs to maintain the sizing of building elements that enhances the "human" scale of the district. The scale of new work and its constituent parts should be compatible with the original buildings of the town and the rest of the district.

2. Massing

The buildings within the district are situated on small to medium-sized lots. New construction and work should be compatible with the existing forms found in the older buildings. Care should be taken to avoid crowding too large of a building on the lot when the aesthetic elements of orientation and spacing will be sacrificed. A similar ratio of building footprint to lot area should be maintained from property to property. The wall surface/opening ratio found in older buildings is encouraged and desirable. Glass curtain walls ("picture windows" or "display windows") should be avoided as they detract from the character of the district. Similarly, large, flat walls which are unbroken by openings or setbacks/articulations on the front facade are not desirable and are much less likely to enhance the characteristics of the district.

3. Height

The height of an addition should not exceed the height of the original building, and usually, additions should be lower in height than the main building. The height of a newly constructed building should be comparable to the height of existing adjacent buildings. New buildings constructed in undeveloped areas should complement and be relatively consistent with the height of existing buildings in the district such that the character and appearance of the district is maintained and extended.

4. Setback

The setback of new buildings or new work should be comparable to the streetscape setback of the original adjacent buildings. For example, if the building on lot A has a setback of five (5) feet from the sidewalk and the building on lot C has a setback of fifteen (15) feet from the sidewalk, a new building constructed on lot B should be set either: (1) equal to that of lot A; (2) equal to that of lot C; or 3) between five (5) and fifteen (15) feet from the sidewalk. The building on lot B should not be set directly at the sidewalk line or at a distance greater than fifteen (15) feet from the sidewalk. The main entrance of a building should "face" and open onto the main thoroughfare. Historically, buildings in Bellbrook were accessed from the streets, therefore, buildings which cannot be oriented to the main street are discouraged.

5. Architectural Detail

New buildings should use architectural details that are similar to surrounding buildings, or which were featured on buildings in Bellbrook historically. Basically, architectural details need to have a historic reason for being used, whether they are being added to an existing building or are part of new construction. In some cases, an old photograph of the property in question will supply the

necessary information about what details were appropriate to the building. In other cases, an owner will have to refer to photographs of other buildings to determine what elements will maintain a sense of continuity with the surrounding architecture.

6. Materials

Building materials should be of similar detailing, texture, scale, and appearance to those used historically on a particular building or within the district. Most of the district's buildings are wood frame with wooden siding. The use of such natural materials is preferred and should be encouraged. However, where natural appearing materials, such as vinyl or aluminum siding, are the only prudent alternative for the landowner, they may be used. Generally, if the materials appear to be synthetic or are highly reflective, they are inappropriate in the district. When possible, masonry/brick colors should be matched to that existing on a building. Siding can cause problems (mildew, water, damage) even though the aesthetic problems are hidden. When only a portion of a wall needs to be resided, materials matching the original should be used, instead of covering the whole building in new siding.

7. Integrity of the District and its Buildings

Compatibility of new work with the original work is highly desirable. New work should look new; it should not pretend to be historic. At the same time, it should complement, not contradict, the existing structures around it. Where an addition meets an existing building, the connection should be carefully designed so that the new work does not detract from what was already there (e.g., a new addition to an existing brick building may use vinyl siding, doors, and windows). However, a skylight on the front of the addition would be inappropriate (e.g., if original openings are filled in, the outline of the original opening should remain apparent by setting new in-fill material back from the surface and leaving original sills and lintels in place). Door openings should be treated similarly.

8. New Construction—Additions.

In general, additions should follow the Guidelines above relating to scale, massing, height, detail, materials, and integrity. The design of an addition should respond or reflect the architectural style of the original building. The design should also respond, in a general way, to surrounding buildings. The additions should respect the original and not overpower it in any way. The connection between an addition and the original structure should be designed so that it does not detract from either structure. Significant or prominent architectural features of the original building should not be destroyed, removed, or obscured by the addition.

9. New Construction—Infill

The general aim of the Guidelines for new construction is to encourage compatibility with the character and quality found in 19th and early 20th century buildings of the district. In-fill construction projects should follow the guidelines above relating to scale, massing, height, detail, materials, and integrity.

10. Site Improvements—Fences

The district is characterized by open space and landscaping. Constricting the open space by erecting fences is discouraged. Privacy fences are not characteristic of the district and are particularly offensive. If a privacy fence is necessary, it should be in compliance with all City ordinances and be contained to the rear of the principal building on the property. All new fences should not extend beyond the front edge of the principal building. Existing retaining walls and fences should be repaired and retained whenever possible. All fences should consider style, color, massing, and the other considerations listed above. Historically, Bellbrook was not developed as or with “gated” properties. The complete enclosure of a property or grouping of properties should be avoided.

11. Site Improvement—Landscaping

The district is characterized by landscaping and green space. Reducing green space by adding additional pavement for driveways or parking areas should be limited whenever possible. Parking areas in front yards should be permitted in extreme situations only. New driveways and parking areas should respect existing land and street contours or minimize the view of parked cars. Landscaping design should be compatible with the surrounding buildings and landscape elements. Landscaping, special lighting, seating, and decorative paving should be designed to be simple and complimentary to the district. Antique or historic reproductions may be used with discretion. Mature trees should be retained as should other significant features, such as large rocks or groundswells.

12. Alterations—Doors and Windows

Possibly the most important features of any building are the doors and windows. The size and location of openings are an essential part of the overall design and an important element of architectural styling. Original openings should not be altered. Original doors and window sashes should be repaired rather than replaced, whenever possible. When replacement is necessary, the new door or window should match the original in size and style as closely as possible. Metal or plastic window frames are generally unacceptable unless they are painted. Screens and storm windows should be as inconspicuous as possible. Metal storm windows or doors are not appropriate unless they are painted.

13. Alterations—Roofs

The existing roof line and architectural features which give the building its character (towers, roof shape, dormers, cornices, brackets, and chimneys) should be retained whenever possible. The addition of features such as vents, skylights, decks, and roof top utilities should be avoided or should be inconspicuously placed and screened where necessary. Generally, rolled roofing, built-up tar and gravel, plastic, or fiberglass roofing material is inappropriate. However, on flat or low-pitched roofs which are not visible from public areas, these roof materials may be considered. Where original roofing materials are existent, efforts should be made to retain as much as possible if repairs will meet the needs of the owner.

14. Alterations—Building Details

Architectural features such as window hoods, cornices, brackets, bay windows, door surrounds (side lights), railings, shutters, porches, and other ornamental elements should be preserved. Porches should not be enclosed in a permanent fashion. Missing materials should be replicated and replaced if possible; however, it is better for a building to be missing one decorative element than to remove those remaining for the sake of appearances. If replacement of an element with new is necessary, every effort should be made to match the original as closely as practicable. These kinds of distinctive features help identify and distinguish the character of the Old Village District of Bellbrook.

15. Alterations—Utility Installation

The installation of utility and mechanical systems, such as water or gas meters, antennas and central air conditioning units should be inconspicuously placed, avoiding installation on the street façade whenever possible. Television reception antennas and satellite dishes should be located where they are not visible, on the front façade or other public areas. Mechanical equipment on the ground should be screened with a fence or plant materials or housed in a structure that is in harmony with the surroundings. Mechanical equipment attached to the side or roof of a building should be kept as low as possible and covered, or painted, to blend with the background. Wall or window air conditioning units should not be placed on the street façade if possible.

4.4 Signs

Signs meeting the provisions of Article #18., Section 18.20B, Permitted Signs (Old Village District), shall be exempt from a public hearing but shall require written prior approval of the Community Development Administrator.

4.4.1 Voluntary Guidelines for Signs

1. Signs should be designed for clarity, legibility, and compatibility with the building or property on which they are located. They should be neat and “professional” in appearance.
2. Signs should be located above the storefront, on storefront windows or on awnings. Signs should not cover any architectural features. They should capitalize on the special character of the building and reflect the nature of the business contained therein. {Billboards, internally illuminated signs, and temporary illuminated signs are prohibited by the Zoning Code.
3. Free-standing signs should not be sized in such a way as to obstruct views and detract from the character of the district. Signs made of natural materials (such as wood) are encouraged; plastic and other synthetic materials are inappropriate; and standardized pole signs should be avoided.
4. Other outside attachments to the building, such as light fixtures, should be compatible. Ultra-contemporary and bright lights directly against the building surface are less desirable. Distinctive lights which stand away from the building wall and are only as bright as necessary are preferred.

ARTICLE 15 FLOOD DAMAGE PREVENTION

15.01 GENERAL PROVISIONS

(A) Statutory Authorization. Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the City Council of the City of Bellbrook, State of Ohio, does ordain as follows:

(B) Findings of Fact. The City of Bellbrook has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(C) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety, and general welfare, and to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

(D) Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, or property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protection barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(E) Lands to Which these Regulations Apply

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Bellbrook as identified in Section 15.01(F), including any additional areas of special flood hazard.

(F) Basis for Establishing the Areas of Special Flood Hazard

For the purposes of these regulations, the following studies and/or maps are adopted:

- (1) Flood Insurance Study, Greene County, Ohio and Incorporated Areas, and Flood Insurance Rate Map, Greene County, Ohio, and Incorporated Areas, both effective March 8, 2022.
- (2) Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways, or delineation of other areas of special flood hazard.
- (3) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Bellbrook as required by Section 15.04 (C) Subdivisions and Other New Developments.

- (a) Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at 15 East Franklin Street, Bellbrook, OH 45305.

(4) Overlay District Designation

- (a) The areas of special flood hazard identified [on the Official Zoning Map] shall be shown as an overlay district. The overlay district shall be designated as a Flood Hazard (FH) District. Within the Flood Hazard District there shall be a Floodway Component. The floodway portion of the Flood Hazard District shall adhere to all requirements for the areas of special flood hazard, as well as those sections which specifically address the floodway.
- (b) The overlay FH District shall be superimposed over the Official Zoning Map. The underlying zoning district as shown on the Official Zoning Map shall hereafter be called the base district. Uses and minimum requirements shall be determined by the base district. However, if the provisions governing the overlay district are stricter than those of the base district, the provisions of this Ordinance shall supersede those of the base district.

(5) District Boundary Changes

- (a) The delineation of the Flood Hazard District may be revised by the City of Bellbrook where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by a federal, state, local, or other qualified agency or where individual documents support such changes. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

(G) Abrogation and Greater Restrictions

- (1) These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the stronger restrictions shall prevail.

(H) Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or federal law, such state or federal law shall take precedence over these regulations.

(I) Warning and Disclaimer of Liability

- (1) The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights maybe increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City or Bellbrook, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations, or any administrative decision lawfully made thereafter.

(J) Severability

- (1) Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

15.02

DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance the most reasonable application.

- (A) Accessory Structure: A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (B) Appeal: A request for a review of the floodplain administrator's interpretation of any provisions of these regulations or a request for a variance.
- (C) Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.
- (D) Base (100-Year) Flood Elevation (BFE): The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean

Sea Level (MSL). In Zone AO areas, the base flood elevation is the lowest adjacent natural grade elevation plus the depth number (from 1 to 3 feet).

- (E) Basement: Any area of the building having its floor subgrade (below ground level) on all sides.
- (F) Development: Any manmade 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 materials.
- (G) Enclosure Below the Lowest Floor: See “Lowest Floor.”
- (H) Executive Order 11988 (Floodplain Management): Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (I) Federal Emergency Management Agency (FEMA): The agency with the overall responsibility for administering the National Flood Insurance Program.
- (J) Fill: A deposit of earth material placed by artificial means.
- (K) Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters; and/or
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (L) Flood Hazard Boundary Map (FHBM): Usually the initial map, produced by the Federal Emergency Management Agency or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.
- (M) Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.
- (N) Flood Insurance Risk Zones: Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
 - (1) Zone A: Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are not determined.

(2) Zone A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.

(3) Zone AO: Special flood hazard areas inundated by the 100-year flood in any given year; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

(4) Zone AH: Special flood hazard areas inundated by the 100-year flood in any given year; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

(5) Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

(6) Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

(7) Zone C and Zone X (unshaded): Areas determined to be outside the 500-year floodplain.

(O) Flood Insurance Study (FIS): The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

(P) Floodproofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

(Q) Flood Protection Elevation: The Flood Protection Elevation, or FPE, is the base flood elevation plus two [2] feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

(R) Floodway: A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community. The floodway is an

extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

- (S) Freeboard: A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- (T) Historic structure: Any structure that is:
- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office; or
 - (4) Individually listed on the inventory of historic places maintained by Bellbrook's historic preservation program, which program is certified by the Ohio Historic Preservation Office.
- (U) Hydrologic and hydraulic engineering analysis: An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.
- (V) Letter of Map Change (LOMC): A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:
- (1) Letter of Map Amendment (LOMA): A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map

and establishes that a specific property is not located in a special flood hazard area.

(2) Letter of Map Revision (LOMR): A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

(3) Conditional Letter of Map Revision (CLOMR): A comment by FEMA regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

(W) Lowest Floor: The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes and "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

(X) Manufactured home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 4781 of the Ohio Revised Code.

(Y) Manufactured home park: As specified in the Ohio Adm. Code 4781-12-01(K), a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. Manufactured home park does not include any tract of land used solely for the storage or display for sale of manufactured homes.

- (Z) Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- (AA) National Flood Insurance Program (NFIP): The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.
- (BB) New construction: Structures for which the "start of construction" commenced on or after the effective date of a floodplain regulation adopted by Bellbrook and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM [June 1, 1977] and includes any subsequent improvements to such structures.
- (CC) Person: Any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Rev. Code §111.15(A)(2) as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.
- (DD) Recreational vehicle: A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (EE) Registered Professional Architect: A person registered to engage in the practice of architecture pursuant to Ohio Rev. Code §4703.01 and 4703.19.
- (FF) Registered Professional Engineer: A person registered as a professional engineer pursuant to Ohio Rev. Code Chapter 4733.

- (GG) Registered Professional Surveyor: A person registered as a professional surveyor pursuant to Ohio Rev. Code Chapter 4733.
- (HH) Special Flood Hazard Area or Areas of Special Flood Hazard: It is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, or A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.
- (II) Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.
- (JJ) Structure: A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (KK) Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to the 'before damaged' condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (LL) Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure."

(MM) Variance: A grant of relief from the standards of these regulations.

(NN) Violation: The failure of a structure or other development to be fully compliant with these regulations.

15.03

ADMINISTRATION

- (A) Designation of the Floodplain Administrator: The Zoning Administrator (Community Development Administrator) is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.
- (B) Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
 - (1) Evaluate applications for permits to develop in special flood hazard areas.
 - (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
 - (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
 - (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
 - (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, floodproofing certificates, variances, and records of enforcement actions taken for violations of these regulations.
 - (6) Enforce the provisions of these regulations.
 - (7) Provide information, testimony, or other evidence as needed during variance hearings.
 - (8) Coordinate map maintenance activities and FEMA follow-up.
 - (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in

special flood hazard areas identified by FEMA, must be the development standards of these regulations.

(C) Floodplain Development Permits

- (1) It shall be unlawful for any person to begin construction or other development activity including but not limited to filling, grading, construction, alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1.6, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(D) Application Required

- (1) An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:
 - (a) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
 - (b) Elevation of the existing, natural ground where structures are proposed.
 - (c) Elevation of the lowest floor, including basement, of all proposed structures.
 - (d) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
 - (e) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:

- (i) Floodproofing certification for non-residential floodproofed structure as required in Section 15.04 (E).
- (ii) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 15.04(D)(5) are designed to automatically equalize hydrostatic flood forces.
- (iii) Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required by Section 15.04(I)(3).
- (iv) A hydrologic and hydraulic analysis demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 15.04(I)(2).
- (v) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 15.04 (I)(1).
- (vi) Generation of base flood elevation(s) for subdivision and other new developments as required by Section 15.04(C).

(f) A Floodplain Development Permit Application Fee set by the Schedule of Fees adopted by the City of Bellbrook.

(E) Review and Approval of a Floodplain Development Permit Application

(1) Review

- (a) After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 3.4 has been received by the Floodplain Administrator.
- (b) The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

(F) Inspections: The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(G) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:

- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a *Federal Emergency Management Agency Elevation Certificate* completed by a registered professional surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation *certificate* may be completed by the property owner or owner's representative.
- (2) For all development activities subject to the standards of Section 15.03(K)(1) a Letter of Map Revision.
- (3) For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed Floodproofing Certificate for Non-Residential Structures completed by a registered professional engineer or architect together with associated documentation.

(H) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application

and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 15.05 of these regulations.

(I) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$2,500.

(J) State and Federal Development

(1) Development that is funded, financed, undertaken, or preempted by state agencies shall comply with minimum NF1P criteria.

(2) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with the minimum NW criteria and any applicable local floodplain management resolution or ordinance as required by Ohio Revised Code Section 1521.13. This includes, but is not limited to:

(a) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Commerce and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 4781:12.

(b) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.

(c) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3784 of the Ohio Revised Code.

(3) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.

(a) Each federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget request reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of EO 11988.

(K) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Bellbrook flood maps, studies and other data identified in Section 15.01 (F) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data

(a) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

(i) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

(ii) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;

(iii) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

(iv) Subdivision or other new development proposals requiring the establishment of base flood elevations in accordance with Section 15.04.

(b) It is the responsibility of the applicant to have technical data, required in accordance with Section 15.03 (K)(1) prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(c) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

(i) Proposed floodway encroachments that increase the base flood elevation; and

(ii) Proposed development which increases the base flood elevation by more than one foot in riverine areas where FEMA has provided base flood elevations but no floodway.

(d) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 15.03 (K)(1)(a).

(2) Right to Submit New Technical Data: The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the City Manager of Bellbrook, and may be submitted at any time.

(3) Annexation/Detachment: Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Bellbrook have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Bellbrook's Flood Insurance Rate Map accurately represent the City of Bellbrook boundaries, include within such notification a copy of a map of the City of Bellbrook suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Bellbrook has assumed or relinquished floodplain management regulatory authority.

(L) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

- (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
- (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
- (3) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.05, Appeals and Variances.

- (4) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this Ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

(M) Use of Preliminary Insurance Flood Rate Map and/or Flood Insurance Study Data

(1) Zone A:

- (a) Within Zone A areas designated on an effective FIRM, data from the preliminary FIRM and/or FIS shall reasonably utilized as best available data.
- (b) When all appeals have been resolved and a notice of final food elevation determination has been provided in a Letter of Final Determination (LFD), BFE and floodway data from the preliminary FIRM and/or FIS shall be used for regulating development.

(2) Zones Alt, A1-30, AH, and AO:

- (a) BFE and floodway data from a preliminary FIS or FIRM restudy are not required to be used in lieu of BFE and floodway data contained in an existing FIS and FIRM. However,
 - (i) Where BFEs increase in a restudied area, communities have the responsibility to ensure that new or substantially improved structures are protected. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data in instances where BFEs increase and floodways are revised to ensure that the health, safety, and property of their citizens are protected.
 - (ii) Where BFEs decrease, preliminary FIS or FIRM data should not be used to regulate floodplain development until the LFD has been issued or until all appeals have been resolved.

- (b) If preliminary FIRM or FIS has designated floodways where none had previously existed, communities should reasonably utilize this data in lieu of applying the encroachment performance standard of Section 15.04(1)(2) since the data in the draft or preliminary FIS represents the best data available.

(3) Zones B, C, and X:

- (a) Use of BFE and floodway data from a preliminary FIRM or FIS are not required for areas designated as Zone B, C, or X on the effective FIRM which are being revised to Zone AE, A1-30, All, or AO. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data to ensure that the health, safety, and property of their citizens are protected.

(N) Substantial Damage Determinations. Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:

- (1) Determine whether the damaged structures are located in special flood hazard areas;
- (2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
- (3) Require owners of substantially damaged structures to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

15.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 15.01 (F), 15.03 (1)(1), or 15.03.

(A) Use Regulations

(1) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by Bellbrook are allowed provided they meet the provisions of these regulations.

(B) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems in the absence of any more restrictive standard provided under the Ohio Revised Code or applicable state rules:

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

(2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

(3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(C) Subdivisions and Other New Developments

(1) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;

(2) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;

(3) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and

(4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.

(5) The applicant shall meet the requirement to submit technical data to FEMA in Section 3.11(A)(1)(d) when a hydrologic and hydraulic analysis is

completed that generates base flood elevations as required by Section 15.04 (C)(4).

(D) Residential Structures. The requirements of Section 4.4 apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and All, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 15.03 (M).

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring (15.04 (D)(1)) and construction materials resistant to flood damage (15.04 (D)(2)) are satisfied.

(2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.

(3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation.

(5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings to allow the automatic equalization of hydrostatic pressure may have an enclosure below the lowest floor provided the enclosure meets the following standards:

- (a) Be used only for the parking of vehicles, building access, or storage; and
- (b) be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
- (c) have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 15.04(D).

(E) Nonresidential Structures. The requirements of Section 15.04 (E) apply to new construction and to substantial improvements of nonresidential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by TEMA under the circumstances provided in Section 1503 (M).

(1) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall meet the requirements of Section 15.04 (D)(1)- (3) and (5)-(7).

(2) New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:

(a) Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

(c) Be certified by a registered professional engineer or architect, through the use of a *Federal Emergency Management Agency Floodproofing Certificate*, that the design and methods of construction are in accordance with Section 15.04 (E)(2)(a) and (2).

(F) Accessory Structures. Structures that are 600 square feet or less which are used for parking and storage only are exempt from elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH

designated on the community's FIRM. Such structures must meet the following standards:

- (1) They shall not be used for human habitation;
- (2) They shall be constructed of flood resistant materials;
- (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- (4) They shall be firmly anchored to prevent flotation;
- (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- (6) They shall meet the opening requirements of Section 15.04 (D)(5)(C);

(G) Recreational Vehicles. Recreational vehicles on sites within zones A, A1-A30, AE, AO, or AH must meet at least one of the following standards:

- (1) They shall not be located on sites in special flood hazard areas for more than 180 days, or
- (2) They must be fully licensed and ready for highway use, or
- (3) They must be placed on the site pursuant to a floodplain development permit issued under Sections 15.03(C) and 15.03(D), and meet all standards of Section 15.04(D).

(H) Gas or Liquid Storage Tanks

- (1) Within Zone A, A1-A-30, AE, AO, or AH, new or substantially improved above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(I) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized.

(1) Development in Floodways

- (a) In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
- (b) Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:

- (i) Meet the requirements to submit technical data in Section 15.03 (K)(1);
- (ii) An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
- (iii) Certification that no structures are located in areas that would be impacted the increased flood elevation;
- (iv) Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
- (v) Concurrence of the City Manager of Bellbrook and the Chief Executive Officer of any other communities impacted by the proposed actions.

(2) Development in Riverine Areas with Base Flood Elevations but No Floodways

- (a) In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
- (b) Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - (i) An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - (ii) Section 15.04 (I)(1)(b), items (i) and (iii)-(v).

(2) Alterations of a Watercourse

- (a) For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field

determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the *USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique* or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

- (i) The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
- (ii) Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
- (iii) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with Bellbrook specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
- (iv) The applicant shall meet the requirements to submit technical data in Section 15.03 (1)(1)(a)(iii) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

SECTION 15.05 APPEALS AND VARIANCES

(A) Appeals Board Established

- (1) The Board of Zoning Appeals as established by the City of Bellbrook shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

(2) Records of the Appeals Board shall be kept and filed at
15 East Franklin Street, Bellbrook, OH 45305.

(3)

(B) Powers and Duties

(1) The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.

(2) Authorize variances in accordance with Section 15.05 (D) of these regulations.

(C) Appeals. Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within [301 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board. Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

(D) Variances. Any person believing that the use and development standards of these regulations would result in practical difficulty may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) Application for a Variance

(a) Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.

(b) Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use;

description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

- (c) All applications for a variance shall be accompanied by a Variance Application Fee set in the schedule of fees adopted by the City of Bellbrook.

(2) Notice for Public Hearing. Procedures outlined in Zoning Code Article 20 Section 20.09.

(3) Public Hearing. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

- (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 importance of the services provided by the proposed facility to the community.
- (e) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- (f) The necessity to the facility of a waterfront location, where applicable.
- (g) The compatibility of the proposed use with existing and anticipated development.
- (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (k) 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.

(4) Variances shall only be issued upon:

- (a) A showing of good and sufficient cause.
- (b) A determination that failure to grant the variance would result in practical difficulty due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- (c) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
- (d) A determination that the structure or other development is protected by methods to minimize flood damages.
- (e) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (f) Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

(5) Other Conditions for Variances

- (a) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (b) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 15.05 (D)(3)(a) to (i) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(E) Procedure at Hearings

- (1) All testimony shall be given under oath.

- (2) A complete record of the proceedings shall be kept, including all documents presented and a verbatim record of the testimony of all witnesses.
- (3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- (4) The administrator may present evidence or testimony in opposition to the appeal or variance.
- (5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- (6) Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- (7) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- (8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within thirty (30) days after the hearing.

(F) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Greene County Court of Common Pleas, pursuant to Ohio Rev. Code Chapter 2505 and 2506.

- (1) which, if taken, will effect compliance with the provisions of these regulations;
- (2) Specify a reasonable time for performance;
- (3) Advise the owner, operator, or occupant of the right to appeal;
- (4) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(C) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a minor misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Bellbrook. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Bellbrook from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Bellbrook shall prosecute any violation of these regulations in accordance with the penalties stated herein.

(A) Compliance Required

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 15.03 (I).
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 15.06 (C).
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 15.06 (C).

(B) Notice of Violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(C) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a minor misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Bellbrook. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Bellbrook from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 16

A-1 AGRICULTURAL DISTRICT

16.01

INTENT

This district is composed of certain land being used for agricultural activities, publicly owned and operated buildings and facilities, open recreational uses, and other open land uses. Sub-marginal lands having no principal use also are included in this district. It is the intent of this district to protect the open area from the encroachment of scattered urban type uses until such time as the area is ready for more intense development.

16.02

PERMITTED PRINCIPAL USES

(1) Municipal wells and water supply facilities.

(2) Agriculture and gardening including the sale of produce and plants raised on the premises.

16.03

ACCESSORY USES

(1) Personal Wireless Service Sites.

(2) Any use customarily accessory or incidental to the permitted uses with the exception of uses listed under Section 16.04 (7) below.

16.04

CONDITIONAL USES

(1) Cemeteries.

(2) Home occupations (See Zoning Code Section 3.02).

(3) One family dwellings.

(4) Open air commercial amusements.

(5) Public or private recreation facilities including parks, playgrounds, golf courses, boat docks, driving ranges, swimming pools, and customary accessory buildings.

(6) Supervised educational, religious, recreational, and physical fitness facilities with or without provisions for overnight short-term residence such as boarding schools, band camps, religious retreats, scout camps, and physical fitness/weight control centers.

(7) Breeding, boarding, grooming, and retail sales of domestic pet birds. Retail sale of supplies related to the care of domestic pet birds. The business owner/operator must maintain his principal residence on property used for any business use outlined in this subsection (7).

16.05

YARD AND LOT REQUIREMENTS

(1) Required yards:

(a) Front yards shall not be less than thirty-five (35) feet in depth;

(b) Side yards shall not be less than fifteen (15) feet on each side;

(c) Rear yards shall not be less than forty (40) feet in depth.

(2) Minimum Lot Area:

The minimum lot area shall not be less than five (5) acres.

16.06

BUILDING HEIGHT REGULATIONS

No structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height with the exception of personal wireless service towers which shall not exceed two hundred (200) feet in height.

16.07

ACCESSORY PARKING

In the Agricultural District parking shall be provided as required in Section 18.16 of this Zoning Code.

16.08

SIGNS

See Zoning Code Section 18.20 for size and location of permitted signs.

Article 17 **PLANNED UNIT DEVELOPMENT**

17.01 **PURPOSE AND INTENT**

The purpose and intent of the PUD districts is to provide a comprehensive development plan that is flexible and innovative when the development of a site by standard, more rigid, conventional zoning district regulations may produce less efficient use of the land and less amenities and benefits for the community and users of the development. Development under planned unit development provisions provides a means for encouraging ingenuity, imagination, and flexibility on the part of landowners, engineers, architects, site planners, and developers in the planning and design of land areas. It is not the intent of the planned unit development provisions to allow applicants to circumvent the intent of this Zoning Code or to allow development of land not in conformance with the Comprehensive Plan of the City.

17.02 **MANDATORY PUD APPLICABILITY**

Proposals for development shall be developed under PUD district provisions when the Community Development Administrator determines the development proposal exhibits one or more of the following listed characteristics or a characteristic of similar magnitude or nature:

- (A) The total gross area of the proposed development is ten (10) acres or more in size, except:
 - (1) Detached single-family developments submitted for development under R-1AA, R-1A, and/or R—1B Zoning District requirements;
 - (2) Developments proposed for A-1 zoned property and all of the uses proposed for the development are permitted by A-1 zoning; or
 - (3) Developments in which the zoning designation of the subject property is appropriate for the proposed development and such zoning designation was in effect and approved prior to adoption of this Ordinance.

- (B) The proposed development involves uses permitted by standard zoning districts in accordance with the provisions of Section 6.01 through 12.09 of this Zoning Code, and such uses are permitted by one or more PUD districts, and without PUD district zoning classification the development would normally require the approval of more than one standard zoning district.

17.03 **VOLUNTARY PUD APPLICABILITY**

Applicants of proposals for development in which the development is determined, as per Section 17.02 above, do not meet the conditions of mandatory PUD applicability may voluntarily request to be considered for PUD zoning classification and development

under PUD district provisions. Approval for consideration shall not be construed or interpreted as approval of the requested PUD zoning.

17.04

TYPES OF PLANNED UNIT DEVELOPMENT DISTRICTS

Types of planned unit development districts include PD-1 (Planned Residential Development Districts); PD-2 (Planned Business Development Districts); PD-3 (Planned Industrial Development Districts); PD-4 (Planned Mixed-Use Development Districts); and PD-5 (Planned Public and Private Buildings and Grounds Districts). Each PUD district shall be governed by the requirements specified for each respective PUD district and the general provisions governing planned unit developments.

17.05

GENERAL PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENTS

(A) *Project Control and Ownership.* Planned unit development district designation is intended to apply to development sites that are under single ownership or unified control to any comprehensive design, planning, and development of the site. The project land may be owned, leased, or controlled by either one or more persons, partnerships, corporations, or other appropriate business associations capable of satisfying the objectives and requirements of the planned unit development district. The City shall require proof of ownership, covenants, easements, and other forms of property rights or control to ensure satisfactory compliance with PUD objectives and requirements.

(B) *PUD Agreement.* Upon approval of a specific site plan, the City, at its sole discretion, may require the PUD developer to enter into a PUD Agreement with the City, and to furnish a performance bond for the purposes of assuring satisfactory completion of all requirements for site improvements such as landscaping and drainage control facilities and any conditions and safeguards as may be set by the City Council and the adopted Ordinance approving the specific PUD. At its discretion, the City may accept a letter of credit or other form of performance guarantee and security in lieu of a performance bond. In all cases the sufficiency and adequacy of such bond, letter of credit or other form of guarantee or security shall be at the sole determination of the City.

(C) *Utility Requirements.* All initial and all future expanded utility systems within the limits of all planned unit development districts are required to be placed underground. Utility systems subject to this requirement shall be those that primarily serve the development within the PUD district and shall include, but not be limited to telephone, cable television, and electrical systems. Appurtenances of these systems which can be effectively screened may be excluded from this requirement if the City Council determines that such appurtenances are essential for utility service to other areas of the community and that such exclusion will not violate the intent or character of the

proposed planned unit development or any conditions, restrictions, or other requirements imposed upon the development.

(D) *Application Process and Sequence.* Due to the flexible and special character of planned unit development districts and projects, and to assist the City in evaluating the merits and making findings of proposed PUD projects, the full PUD approval process generally involves either a two-stage review or a combined review. The applicant may select either the two-stage process or the combined review process. Unless the applicant informs the Community Development Administrator at the time of submission of the PUD zoning classification application of selection of the combined review process, the applicant shall be considered to have selected the two-stage review process.

(1) *Two-stage review process.*

(a) *First stage.* The first stage of the two-stage review process generally consists of submission of an application for PUD zoning classification in accordance with division (F) of this section and Section 17.06 (A) – (C). The Planning Board then reviews and makes a recommendation on the PUD zoning classification application in accordance with Section 17.06 (D) – (F). The City Council then, in accordance with Section 17.06 (G) and (H), reviews the PUD zoning classification application and makes a decision to either approve as submitted, approve with supplementary conditions, or disapprove the application. Approval of PUD zoning classification constitutes only approval of PUD district zoning for the subject property. A specific site plan shall be admitted and approved prior to the issuance of a City zoning permit for the subject property.

(b) *Second stage.* Unless the applicant selects the combined review process as per division (D)(2) of this section, the second stage of the two-stage PUD approval process begins at the initiation of the application and is effective only if the PUD application submitted in the first stage was approved or approved with supplementary conditions by City Council. The second stage generally consists of submission of a specific site plan for the subject property in accordance with division (F) of this section and Section 17.07 (A), (B), (F), and (G). An administrative review and recommendation upon the specific site plan application is then conducted by the Planning Board in accordance with Section 17.07 (H) – (J). The City Council then, in accordance with Section 17.07 (K) and (L), reviews the specific site plan application and makes an administrative decision to either approve the application as submitted, approve with supplementary conditions, or disapprove.

(2) *Combined review process.*

At the applicant's option the first and second stage of the two-stage review process may be combined for a combined review process. If the applicant elects

such option, a PUD zoning classification application and a related specific site plan application, in accordance with Section 17.06 (C) and 17.07 (B), shall be simultaneously submitted by the applicant and both applications shall together proceed through a combined review process. In such case, the Planning Board shall concurrently review both applications, but shall first make a recommendation upon the PUD zoning classification prior to making a recommendation upon the specific site plan application. The City Council then shall concurrently review both applications, but shall first act upon the PUD zoning classification prior to taking administrative action upon the specific site plan application.

(E) *Application completeness and officially filed status.* Planned unit development and specific site plan applications shall not be considered officially filed until the applicant has submitted all applicable filing fees, and submitted all information as may be required by the Community Development Department. Completeness of an application and submission of all necessary information is the responsibility of the applicant. Only after an application is determined by the Community Development Administrator to be complete and officially filed will application review procedures begin. Applications for specific site plan approval that do not adhere to the substantial conformance requirements of Section 17.07 may be considered to be incomplete, not officially filed, and not subject to City review procedures.

(F) *Site arrangement requirements.* The buildings, circulation, open space, landscaping, and other elements of the proposed PUD shall be arranged, planned, and designed on the site to produce:

- (1) Favorable relationships with the existing natural topography, bodies of water or water courses, existing desirable vegetation, exposure to significant views and exposure to sunlight and wind;
- (2) Safety, convenience, and ease of pedestrian and vehicular movement on, about and throughout the site and between the site and the community;
- (3) An overall positive visual quality throughout, into and from the development site;
- (4) An efficient, functionally organized, and cohesive development;
- (5) All areas designed for future expansion or not intended for immediate improvements or development shall be landscaped or otherwise maintained in a neat and orderly manner; and
- (6) Screening shall be as specified in Section 18.17, Screening.

(G) *Zoning map identification.* Areas approved as a planned unit development district will be clearly marked and identified on the zoning map by indicating the specific PUD district upon which approval was granted, either PD-1, PD-2, PD-3, PD-4, or PD-5.

(H) *Multiple PUD projects.* A proposed PUD project, either voluntary or mandatory, shall be considered a "multiple PUD project" when each individual use proposed for the project is permitted by at least one of the various PUD zoning districts (Example: PD-4), while at the same time all of the proposed uses for the project are not permitted by only one, single PUD zoning district (Example: PD-1 and PD-4). A multiple PUD project requires differing PUD district zoning classifications for respective, contiguous portions of the property proposed for development. When the proposed development is a multiple PUD project the applicant shall file a single PUD zoning application, identifying each specific PUD zoning district, incorporating a functional and general location phasing plan for each individual PUD, a functional and general locational sequencing schedule for the full multiple PUD project, and all other necessary application materials as per Section 17.06 (C). A multiple PUD differs from a PD-4 (Section 17.14) in that the differing uses (such as, residential vis-a-vis commercial) are located in the distinctive appropriate PUD District.

(I) *Transition of PUD provisions and regulations.*

(1) *Previous PUD approvals.* All PUD approvals, including any approved modifications, amendments, or conditions, approved by the City prior to the effective date of this Ordinance, and where any time limitation for such approvals has not expired, shall be governed by the planned unit development provisions and regulations in effect immediately prior to the adoption this Ordinance. If any time limitation attached to an approval of a PUD, modification, amendment, or condition has expired, such approval shall be governed by the current provisions and regulations of Sections 17.01 through 17.16 and any other applicable sections of this Zoning Code.

(2) *Applications filed prior to effective date.* All PUD applications and all requests to modify, change, amend, or alter a PUD that are officially filed, but not approved prior to the effective date of this Zoning Code shall be governed by the PUD provisions and regulations in effect on the official filing date of the application or request.

(4) *Applications filed after effective date.* On and after the effective date of this Ordinance, all PUD applications, and all requests to modify, change, or alter a PUD shall be governed by the PUD provisions and regulations in effect at that time.

(J) *Appeal of Community Development Administrator's determination.* In order to assure that Planning Board and City Council have all information pertinent to the decision-making process contained within this section, the Community Development Administrator has been given the responsibility to require additional information as necessary in order for Planning Board and City Council to make an informed decision. Any applicant who objects to the provision of additional information may request a determination by Planning Board at its next regularly scheduled meeting. No further action shall take place regarding the application and submission until the Planning Board has rendered its decision, which shall be final.

APPROVAL PROCEDURES FOR PLANNED UNIT DEVELOPMENT (PUD) ZONING CLASSIFICATION

(A) *Notice to applicants.* Notice is hereby provided to all applicants that:

- (1) Approval of PUD zoning classification shall not be deemed approval of a specific site plan or approval of a zoning permit;
- (2) The issuance of a City zoning permit for all or any portion of a PUD project requires City Council approval of a specific site plan; and
- (3) In accordance with Section 17.07 (C) and (D), unless an extended approval period is granted by City Council, approval of any specific site plan shall expire if actual construction has not started in the area of approval for the respective specific site plan within two years from the effective date of City Council approval of the plan.

(B) *Pre-application meeting.* Prior to filing an application for a planned unit development, the applicant or the applicant's agent is strongly encouraged to meet with the Community Development Administrator (the "CDA") or the CDA's designee. The purpose of this meeting is to informally and generally discuss the proposed development and the purpose, criteria, and standards of the planned unit development provisions and this Zoning Code, and to provide the prospective applicant an opportunity to ask questions about PUD requirements and the PUD review and approval process. The applicant shall note that no statement or representation of the CDA, the CDA's designee, or any representative of the City during this pre-application meeting and any subsequent pre-application meetings shall be binding upon the Planning Board, the City Council, or the City. In addition, the applicant is encouraged to engage in informal consultation with the City Engineer, entities providing energy or utility services necessary for the proposed PUD, and such other individuals, entities, or organizations as suggested by the CDA or the CDA's designee.

(C) *Application requirements.* The applicant shall officially file, in accordance with Section 17.05(D), an application for planned unit development district classification with the Community Development Department and shall make payment to the City in an amount equal to the established filing fee applicable to the PUD application for the proposed development. The application shall contain an original and copies of all application materials, as required on the checklist on file at the time of application with the Community Development Department in a quantity specified by the Community Development Department.

(D) *Planning Board public hearing and notice.* The Planning Board shall hold a public hearing on an officially filed planned unit development zoning application within 45 days after the application's official filing date. Before holding such public hearing, notice of the hearing shall be given as required by law. Notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 300 feet from the exterior boundaries of the area associated with the proposed PUD zoning classification or PUD amendment proposal. The City, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper publication, electronic media, and any forms of notice utilized in lieu of mailed notice, to owners outside of the 300-foot boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed development. The failure

to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(E) *Planning Board review and recommendation of PUD application.* After a planned unit development application has been determined to be officially filed in accordance with Section 17.05 (F), the Planning Board shall review and study the application and any accompanying materials. In the course of its study, the Board may confer with other agencies of government, request additional information or clarification from the applicant, and request additional study and comments from the Community Development Department staff. The Planning Board shall, by resolution, recommend to the City Council that the request for planned unit development zoning classification be approved as presented, approved with supplementary conditions or modifications, or disapproved. The Board shall then transmit to the City Council all papers constituting the record and the resolution containing the Board's recommendation. If the Board recommends approval with supplementary conditions, such conditions shall be fully expressed in the recommendation resolution. Any normally permitted or accessory use that is recommended to be included in the specific planned unit development shall be fully identified and expressed in the Board's resolution and based upon findings in accordance with Sections 17.12 (B), 17.13 (B), 17.14 (B), 17.15 (B), and 17.16 (B). If the Planning Board determines, in order to conduct a sufficient review and make its recommendation, that additional information is required from the applicant or additional study is required, the Board may table consideration of the application until such additional information is received by the Board or the Board's study is complete.

(F) *Criteria for Planning Board recommendation.* Before making a recommendation for approval or approval with supplementary conditions or modifications, as per division (E) of this section, the Planning Board shall find that the facts submitted with the application and presented at the public hearing, and any modifications, amendments, or supplementary conditions, satisfy the standards and criteria for planned unit development approval as per division (I) of this section.

(G) *City Council public hearing and notice.* Within 45 days after the receipt of the Planning Board recommendation and resolution, the Clerk of City Council shall set a date for a City Council public hearing, notify the applicant the date set, and such hearing shall be held as soon as reasonably possible thereafter, unless the applicant requests additional time. Before holding such public hearing, notice of the hearing shall be given as required by law. Notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 300 feet from the exterior boundaries of the area associated with the proposed PUD zoning classification or PUD amendment proposal. The City, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper publication, electronic media and/or any other forms of notice utilized in lieu of mailed notice, to owners outside of the 300 foot boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed development. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(H) *Action by City Council.* City Council shall, by an affirmative vote of at least four (4) of its members, either disapprove the recommendation of the Planning Board or introduce and hold the first reading of an Ordinance adopting or modifying such recommendation. Following the public hearing of the Ordinance, a planned unit development zoning classification request shall be either approved, approved with supplementary conditions, or disapproved by at least four (4) members of City Council. In the event the City Council approves the planned unit development, with or without supplementary conditions, the Council shall find, by Ordinance, that the facts submitted with the application and presented at the public

hearing, and any modifications, amendments or supplementary conditions satisfy the standards and criteria for planned unit development approval as per division (I) of this section. If City Council approves the planned unit development zoning classification, the approval Ordinance shall fully set forth any and all supplementary conditions for approval, and all standard district permitted or accessory uses within the specific PUD shall be fully expressed in the approval Ordinance and based upon findings in accordance with Sections 17.12 (B), 17.13 (B), 17.14 (B), and 17.15 (B), and 17.16 (B). If the City Council determines in order to conduct a sufficient review and make its recommendation that additional information is required from the applicant or additional study is required, the Council may table consideration of the application until such additional information is received by the Council or the Council's study is complete.

(I) *Standards and criteria for Planned Unit Development zoning approval.* A planned unit development zoning classification shall only be approved when the following standards and criteria are satisfied.

- (1) The planned unit development complies with the purpose and intent of this Zoning Code;
- (2) The proposed development promotes the health, safety, and general welfare of the present and future inhabitants of the city;
- (3) The proposed zoning and the conditions and requirements incorporated within the Ordinance approving the PUD zoning district provide for minimizing impacts on the surrounding development;
- (4) The site will be accessible from current or planned public thoroughfares adequate to carry traffic which will be imposed upon them by the proposed development;
- (5) Potential impacts on public services and facilities can be mitigated by site and building design and the benefits which will accrue to the city and the public;
- (6) Existing and proposed utility services for the proposed residential population densities and nonresidential uses are or will be available to the project;
- (7) The proposed development complies with applicable requirements and conditions of Section 17.05;
- (8) Each individual section or subarea of development, as well as the total development, can exist as a functionally independent environment. In the alternative and at the discretion of the City, adequate assurance has been provided by the applicant and to the satisfaction of the City that such objective will be achieved;
- (9) Any permitted, conditional, or accessory uses excluded from the specific proposed planned unit development are based upon findings in accordance with Sections 17.12 (B), 17.13 (B), 17.14 (B), 17.15 (B), and 17.16 (B); and
- (10) The planned unit development can be substantially completed within the time specified in the schedule of development submitted by the applicant.

APPROVAL PROCEDURES FOR SPECIFIC SITE PLAN.

(A) *Notice to applicants.* Notice is hereby provided to all applicants that:

(1) Approval of PUD zoning classification shall not be deemed approval of a specific site plan or approval of a zoning permit;

(2) The issuance of a City zoning permit for all or any portion of a PUD project requires City Council approval of a specific site plan; and

(3) In accordance with divisions (C) and (D) of this section, unless an extended approval period is granted by City Council, approval of any specific site plan shall expire if actual construction has not started in the area of approval for the respective specific site plan within two years from the effective date of City Council approval of the plan.

(B) *Required specific site plan application.* Prior to the issuance of a City zoning permit for any PUD project, a specific site plan application shall be officially filed in accordance with Section 17.05 (F), proceed through the review and approval process as per divisions (G) - (K) of this section, and shall be approved by City Council. All specific site plan applications shall incorporate a minimum area of five acres. In cases in which the total gross area of the property approved for PUD zoning classification is less than five acres, the specific site plan shall incorporate 100% of the PUD property. In all cases the area incorporated in a specific site plan shall be contiguous.

(C) *Expiration of specific site plan approval.* Unless an extended approval period is granted in accordance with division (D) of this section, approval or approval with supplementary conditions of any specific site plan shall expire if, in the judgment and determination of the City, the actual start of construction has not begun in the approved area of the respective specific site plan within two years from the effective date of City Council approval of the respective plan. In the event of expiration of an approved specific site plan, the applicant shall start afresh, submit a specific site plan application in accordance with Sections 17.05 (F) and division (E) of this section, and the application shall proceed through the review and approval process as per divisions (G) - (K) of this section. All PUD site plans approved prior to the passage of this section shall not expire for five years from the date of approval.

(D) *Extension of specific site plan approval period.* Upon request by the owner, a one-time only, administrative extension of the two-year approval period for a specific site plan may be granted by the City Council. In the event such an extension is granted, the period of extension shall not exceed one year. The owner shall submit a written request for an extended site plan approval period to the Community Development Administrator. The written request shall be submitted no sooner than nine months prior to, but no later than 90 days prior to the expiration date of the approved specific site plan which is the subject of the request for approval period extension. The written request shall include the necessity for the extension; submission of documentation and evidence that the owner has made a reasonable effort to begin the actual start of construction; the reason(s) why construction has not actually started to date and will not start prior to expiration of the specific site plan; the requested length of time to extend the specific site plan approval period (not to exceed one year); a description of the impact and major effects upon the full PUD project if the requested extension is not approved; a description of the major effects upon the full PUD project if the requested extension is approved, including changes in phasing or staging plans; and

a revised time schedule showing the dates when construction will actually start for the area of the specific site plan and, if applicable, the remaining areas of the complete PUD project. Within 45 days from the Community Development Administrator's receipt of the owner's written request the Community Development Administrator shall forward the owner's request and the Community Development Administrator's comments and recommendation to the City Council. Within 45 days after City Council receives the request and the Community Development Administrator's comments and recommendation, the Council shall take administrative action upon the request. The City Council shall, by resolution and administrative action, either deny the request for extension, approve the request for extension as submitted, or approve the request for extension for a lesser period of time than requested by the owner. Any extension of approval period for a specific site plan shall become effective and begin to run on the date of Council approval of such extension. Council shall approve an extended approval period for a specific site plan only when the following conditions are satisfied:

- (1) The owner has submitted a written request for an extended approval period for the specific site plan;
- (2) The subject property currently has a PUD zoning classification;
- (3) The approval period for the specific site plan has not been previously extended by City Council;
- (4) An extension of approval period for the specific site plan will not cause the City to breach any PUD Agreement made with the owner;
- (5) The owner, in the judgment of the Council, has taken reasonable steps and made reasonable efforts to actually start construction;
- (6) An extended approval period for the specific site plan will not violate the purpose and intent of Sections 17.01 through 17.15 or other applicable provisions of this Zoning Code;
- (7) An extended approval period for the specific site plan promotes the health, safety, and general welfare of the present and future inhabitants of the City; and
- (8) The period of extension for the specific site plan does not exceed one year.

(E) *Previously approved specific site plans.* A specific site plan approved by City Council shall be deemed null and void upon approval of a subsequent specific site plan for all or part of the same property, unless otherwise conditioned by City Council.

(F) *Application requirements.* The applicant shall, in accordance with Section 17.05 (G), officially file an application for a specific site plan with the Community Development Department, and shall make payment to the City in an amount equal to the established filing fee applicable to the specific site plan application for the proposed development. As per division (G) of this section, the specific site plan shall substantially conform to the PUD zoning plans, concepts, schedules, development information, and conditions as approved or as approved with conditions by City Council. The application shall contain an original and copies of all application materials as required on the checklist on file at the time of application

with the Community Development Department in a quantity specified by the Community Development Department.

(G) *Specific site plan conformance with approved PUD.*

(1) An officially filed specific site plan shall substantially conform to the PUD zoning plans, concepts, schedules, and development information as approved by City Council. If the Community Development Administrator or the Planning Board determines that the officially filed specific site plan does not substantially conform, the applicant may either modify the specific site plan to the extent necessary for substantial conformance and resubmit for review, or start afresh and submit a new specific site plan for review, or apply for an amendment to the PUD zoning classification Ordinance. Notwithstanding Section 17.05 (F), a submitted specific site plan shall not be considered officially filed if the Community Development Administrator determines prior to Planning Board review that the submitted specific site plan does not adhere to the substantial conformance requirement.

(2) At the discretion of the Planning Board, a submitted specific site plan that contains modifications to the plans, concepts, schedules, and development information as approved by City Council, may be determined to substantially conform. In no event shall a specific site plan be determined to substantially conform if the specific site plan involves changes in permitted uses as per Section 17.09, or changes which result in exceeding any limitation or any maximum amount imposed by an Ordinance originally granting or amending the PUD zoning classification for the subject property.

(H) *Planning Board public hearing and notice.* The Planning Board shall hold a public hearing on an officially filed specific site plan application within 45 days after the application's official filing date. Before holding such public hearing, notice of the hearing shall be given as required by law. Notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 300 feet from the exterior boundaries of the area proposed for specific site plan or modification approval. The City, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper publication, electronic media and/or any other forms of notice utilized in lieu of mailed notice, to owners outside of the 300-foot boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed specific site plan. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(I) *Recommendation by Planning Board.* The Planning Board shall take administrative action and, by resolution, recommend to the City Council that the submitted specific site plan be approved as presented, or approved with supplementary conditions or modifications, or disapproved. The Board shall then transmit all papers constituting the record and the resolution containing the Board's recommendation to the Council. All resolutions for specific site plan recommendations to City Council shall indicate the Board is taking administrative action, and if the Board's recommendation is for approval with supplementary conditions, the resolution shall fully express such conditions. If the Planning Board determines in order to conduct a sufficient review and make its recommendation that additional information is required from the applicant or additional study is required, the Board may table consideration of the application until such additional information is received by the Board or the Board's study is complete.

(J) *Criteria for Planning Board recommendation.* Before making a recommendation for approval or approval with supplementary conditions in accordance with division (I) of this section, the Planning Board shall find, by resolution, that the facts submitted with the specific site plan application and presented at the public hearing, and any modifications, amendments, or supplementary conditions, satisfy the standards and criteria for specific site plan approval as per division (M) of this section.

(K) *City Council public hearing and action.* Within 45 days after the receipt of the Planning Board recommendation, the Clerk of the City Council shall set a date for a public hearing and such hearing shall be held as soon as reasonably possible thereafter, unless the applicant requests additional time. The public hearing shall be for the purposes of taking administrative action on the proposed specific site plan. Following the scheduled hearing the City Council shall, by motion, either approve, approve with supplementary conditions, or disapprove the proposed specific site plan. Approval of such motion requires an affirmative vote of four members of the Council. If the Council approves the specific site plan with supplementary conditions, the motion for approval shall fully set forth such conditions and be fully recorded in the meeting minutes. As the basis for City Council approval of a specific site plan, with or without supplementary conditions, Council shall find that the facts submitted with the application and any accompanying materials, and any modifications, amendments or supplementary conditions satisfy the standards and criteria for specific site plan approval as per division (M) of this section. If the standards and criteria of division (M) of this section are not satisfied, Council shall disapprove the specific site plan and shall make findings of fact indicating which particular standards and criteria are not satisfied. If the City Council determines in order to conduct a sufficient review and make its decision that additional information is required from the applicant or additional study is required, the Council may table consideration of the application until such additional information is received by the Council or the Council's study is complete.

(L) *Notice of City Council public hearing.* Before holding the public hearing specified in division (K) of this section, notice shall be provided as required by law. Notice shall also be provided by first class mail at least 15 days prior to the date of the hearing, and such notice shall be deemed given on the date of mailing. Mailed notices shall be provided to all owners of property within 300 feet from the exterior boundaries of the area proposed for specific site plan or modification approval. The City, at its discretion, may provide notice by other alternative means such as hand delivery, newspaper, electronic media and/or any other forms of notice utilized in lieu of mailed notice, to owners outside of the 300-boundary. The notice shall set forth the time and place of the public hearing and the nature of the proposed specific site plan. The failure to deliver the notice as provided in this section, so long as it is not intentional, shall not invalidate the public hearing or any decision on the application.

(M) *Standards and criteria for specific site plan approval.* A specific site plan shall only be approved when the following standards and criteria are satisfied.

- (1) The specific site plan complies with the purpose and intent of the specific PUD zoning;
- (2) The proposed development carries out the purpose and intent of the City's Land Use Plan and Comprehensive Plan;
- (3) The proposed development promotes the health, safety, and general welfare of the present and future inhabitants of the city;

- (4) The specific site plan substantially complies with the substantial conformance requirement of division (G);
- (5) The proposed development has no significant detrimental impact that outweighs the development's benefits to the community;
- (6) The proposed streets and driveways on the site of the proposed development will be adequate to serve the residents, occupants or users of the proposed development, and the specific site plan, along with any necessary off-site vehicular circulation improvements, provides adequate vehicular ingress and egress and will be accessible from current or planned public thoroughfares adequate to carry traffic which will be imposed upon them by the proposed development;
- (7) The proposed development minimizes conflicts between vehicular, pedestrian, and bicycle circulation patterns and movement;
- (8) The benefits of the proposed development mitigate any burden on public services and facilities, including fire and police protection;
- (9) Existing and proposed utility services for residential population densities and nonresidential uses are adequate for the projected demand during all phases of development and at full completion of development;
- (10) The proposed development complies with applicable requirements and conditions of Section 17.05;
- (11) Each individual section or subarea of the development, as well as the total development, can exist as a functionally independent environment. In the alternative and at the discretion of the City, adequate assurance has been provided by the applicant and to the satisfaction of the City that such objective would be achieved;
- (12) The design and other amenities incorporated in the proposed development will provide increased benefits to the residents, occupants, users, and the community and such design and other amenities are in accord with the planned unit development provisions of this Zoning Code and other applicable Ordinances of the City;
- (13) The proposed development contains such covenants, easements, and other such forms of property rights and control as may reasonably be required for the maintenance and care of common, private facilities, and for the public health, safety, and welfare. If governmental ownership of common open space, recreational facilities, or other common facilities is planned, a copy of its acceptance has been filed with the application.

17.08 **PLANNED UNIT DEVELOPMENT OBLIGATIONS AND BINDING AND ENFORCEABLE CONDITIONS.**

If any portion of property included in a planned unit development is sold or leased, the PUD zoning classification and specific site plan obligations shall continue to be binding upon all subsequent owners or lessees, regardless of the acreage involved in the sale or lease. As a matter of procedure, all terms and conditions of any planned unit development zoning classification and specific site plan that were approved by the City Council in the past or may be approved in the future shall remain binding upon and enforceable against the subject tract of land, except to the extent modified in accordance with section 17.11 (A) through (C).

17.09 MODIFICATIONS TO PUD PERMITTED USES

The permitted uses for an approved PUD include all uses identified as permitted and accessory uses for the type of PUD district under which the PUD was approved, except those uses expressly identified as excluded uses in the Ordinance granting PUD zoning approval for the subject property. Upon PUD zoning approval, an applicant is not required to develop all uses permitted for the applicant's specific PUD, however, an applicant shall only develop those uses permitted for the specific PUD. Any request to modify or change the permitted uses of a specific PUD, as such uses are identified in Sections 17.12 (B), 17.13 (B), 17.14 (B), 17.15 (B), and 17.16 (B), and as may be conditioned by the original Ordinance granting PUD zoning classification for the subject property, requires an amendment to such Ordinance. Upon a request to modify or change the permitted uses for a specific PUD, the City, at its discretion, shall require the applicant to either submit a new, full application in accordance with Section 17.06 (C), or submit a modified PUD zoning application, or submit supplementary materials to accompany the original PUD zoning application materials. In all cases, proposed amendments to the original zoning Ordinance shall be subject to review and approval procedures in accordance with Sections 17.06 (D) - (I).

17.10 SIMILARITY OF USES AND CONDITIONAL USES

(A) *Similarity of uses.* The Planning Board shall have the appropriate power and duty to determine if uses not specifically mentioned in this Zoning Code are similar to uses permitted in planned unit development districts. In no event shall a determination of similarity of use by the Planning Board overrule a City Council determination of exclusion of uses from a specific PUD, and the Ordinance originally granting or amending PUD zoning classification shall govern. If a PUD zoning classification application includes a list of intended uses which requires a determination of similarity, the Planning Board shall make such determination before its review and recommendation on the PUD zoning application or concurrently to its review and recommendation on the PUD zoning application.

(B) *Conditional uses within PUDs.* Planning Board shall have the appropriate power and duty to hear and decide upon applications for conditional uses which are requested to be approved uses within a PUD. The Planning Board shall approve, disapprove, or approve with conditions for PUD conditional use applications. Approval of a conditional use application shall expire one year after the effective date of Planning Board approval unless approval of a specific site plan for that conditional use has been approved. Upon approval of a specific site plan, the conditional use will expire with the expiration of the specific site plan.

17.11 MODIFICATIONS TO APPROVED SPECIFIC SITE PLANS

Requests to modify an approved specific site plan, when such requested modification does not involve a change of permitted uses for the specific PUD, may be approved by administrative action. Requests to modify shall be in writing and signed by the property owner. The Community Development Administrator shall determine the type and amount of any additional information necessary for consideration of the modification. Modifications shall be considered either major, minor or incidental, and shall be approved or disapproved by administrative action in accordance with divisions (A), (B) and (C) of this section. Requests to modify an approved specific site plan which involve a change of PUD permitted uses shall be considered a modification to PUD permitted uses and shall comply with Section 17.09.

(A) *Major modifications.* Major modifications are defined as modifications which do not change the PUD's permitted uses and do not exceed any of the limitations and conditions of the PUD's approval Ordinance, and which result in an increase of 5% or more in building coverage; a 5% or greater increase in dwelling unit density; a significant redesign of roadways, or drainage; major redesign of a building which significantly alters the central architectural design or theme of the building; or modifications not considered to be of minor or incidental character. Major modifications to an approved specific site plan require resubmission of a specific site plan application in accordance with Section 17.07. At its discretion and in lieu of compliance with Section 17.07, the Planning Board may require the applicant to either submit a modified application or submit supplementary materials to accompany the original specific site plan application materials. In all cases major modifications to approved specific site plans shall be subject to review and approval procedures in accordance with Section 17.07 (G) - (M).

(B) *Minor modifications.* Minor modifications are defined as modifications which do not change the PUD's permitted uses and do not exceed any of the limitations and conditions of the PUD's approval Ordinance, and which result in an increase of less than 5% in building coverage; an increase of less than 5% in dwelling unit density; changes not exceeding 25 feet in building location not affecting front yard setbacks from streets or setbacks from exterior property lines of the PUD; an increase of not more than five feet in the height of a building or structure; minor redesign of a building such as significant alterations to exterior materials or colors, provided the redesign does not significantly alter the central architectural design or theme of the building; or changes not considered to be of major or incidental modification character. The Planning Board shall, by motion, approve or disapprove minor modifications to approved specific site plans. Such approval shall be based on a Board determination that the modifications are not in conflict with the intent and character of the approved specific site plan and such modifications do not change the permitted uses for the specific PUD. Minor modifications do not require a public hearing and Planning Board's decision shall be final.

(C) *Incidental modifications.* Incidental modifications are defined as modifications which do not change the PUD's permitted uses and do not exceed any of the limitations and conditions of the PUD's approval Ordinance, and which result in less building coverage due to decreasing the size of structures; a decrease in the number of structures; a decrease in the number of dwelling units in a PD-1 or PD-4; minor redesign of PUD streets, such as adjustments in a turning radius; minor redesign, such as a realignment, of pedestrian circulation facilities or parking or loading areas; changes in landscaping or screening materials that do not alter the intended function of the landscaping or screening; an increase of five feet or less in the height of a building or structure; minor revisions of building elevations such as realignment of major building entrances or window placement, or significant alterations to exterior building materials or colors, provided the revisions do not alter the central design or architectural theme of a building; or changes not considered to be of minor or major modification character. The Community Development Administrator or shall approve or disapprove incidental modifications to approved specific site plans. Such

approval shall be based on the Community Development Administrator's determination that the modifications are not in conflict with the intent and character of the approved specific site plan and such modifications do not change the permitted uses for the specific PUD. In the alternative and at the discretion of the Community Development Administrator, the Community Development Administrator may request that incidental modifications be approved by the Planning Board.

(D) *Expiration of specific site plan modifications.* Unless an extended approval period is granted in accordance with division (E) of this section, approval or approval with supplementary conditions of any modification shall expire if, in the judgment and determination of the city, the actual start of construction has not begun in the approved area of the respective specific site plan within two years from the effective date of Staff, Planning Board and/or City Council approval of the respective modification. In the event of expiration of an approved modification, the applicant shall start afresh, submit a modification application in accordance with Section 17.11.

(E) *Extension of specific site plan modification approval period.* Upon request by the owner, a one-time only, administrative extension of the two-year approval period for a modification may be granted by Staff, Planning Board and/or City Council (depending on which entity approved the original modification). In the event such an extension is granted, the period of extension shall not exceed one year. The owner shall submit a written request for an extended modification approval period to the Community Development Administrator. The written request shall be submitted no sooner than nine months prior to, but no later than 90 days prior to the expiration date of the approved modification which is the subject of the request for approval period extension. The written request shall include the necessity for the extension; submission of documentation and evidence that the owner has made a reasonable effort to begin the actual start of construction; the reason(s) why construction has not actually started to date and will not start prior to expiration of the specific site plan; the requested length of time to extend the modification approval period (not to exceed one year); For minor or major modification extension requests, within 45 days from the Community Development Administrator's receipt of the owner's written request, the Community Development Administrator shall forward the owner's request and the Community Development Administrator's comments and recommendation to the Planning Board in the case of a minor mod, to City Council in the case of a major mod. Within 45 days after Planning Board or City Council receives the request and the Community Development Administrator's comments and recommendation, the Council shall take administrative action upon the request. The City Council shall, by resolution and administrative action, either disapprove the request for extension, approve the request for extension as submitted, or approve the request for extension for a lesser period of time than requested by the owner. Any extension of approval period for a modification shall become effective and begin to run on the date of Planning Board or Council approval of such extension. The Community Development Administrator (in the case of incidental mods) Planning Board and/or City Council shall approve an extended approval period for a modification only when the following conditions are satisfied:

- (1) The owner has submitted a written request for an extended approval period for the modification;
- (2) The subject property currently has a PUD zoning classification;
- (3) The approval period for the modification has not been previously extended by City Council and/or Planning Board;

- (4) An extension of approval period for the modification will not cause the city to breach any PUD Agreement made with the owner;
- (5) The owner, in the judgment of the City Council and/or Planning Board, has taken reasonable steps and made reasonable efforts to actually start construction;
- (6) An extended approval period for the modification will not violate the purpose and intent of Section 17.01 through 17.16 and this Zoning Code;
- (7) An extended approval period for the modification promotes the health, safety and general welfare of the present and future inhabitants of the city; and
- (8) The period of extension for the modification does not exceed one year.

(E) *Previously approved modifications.* A modification approved by City Council and/or Planning Board shall be deemed null and void upon approval of a subsequent specific site plan for all or part of the same property, unless otherwise conditioned by Planning Board and/or City Council.

17.12 **PD-1 PLANNED RESIDENTIAL DEVELOPMENT DISTRICTS**

(A) *Intent.* To provide flexibility in the arrangement and design of residential dwellings based upon a unified development plan conceived and carried out for the entire PUD tract. Within this district, appropriate and reasonable population density is maintained while a variety of dwelling unit types is permitted. Developers are to retain natural features such as topography, trees, and drainage ways. Such developments are generally characterized by a significant proportion of usable open space, a unified design concept with particular attention devoted to the periphery of the development, with the objective of compatibility of the development with its surroundings.

(B) *Permitted, accessory and conditional uses.*

(1) The permitted, conditional, and accessory uses in PD-1 districts are those uses included as permitted and accessory uses in residential districts, excluding manufactured home developments. One or more of these permitted and accessory uses may be excluded from the specific PD-1 when the City Council determines that the specific permitted or accessory use normally allowed in the listed residential districts is inappropriate for the specific R-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(b) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development.

(2) Upon approval by City Council in accordance with Section 17.10 (B) those uses included as conditional uses in residential districts are allowed in a PD-1.

(C) *Land use intensity.* For PD-1s, the coverage of the total gross area of the development shall not exceed 60% of the entire development. For the purposes of this section, coverage shall be interpreted to include the area covered by all buildings, all parking areas, all driveways, and all public and private streets and paved rights-of-way. Structures and other impervious surfaces included within, and developed as an integral part of an area of open space may, at the sole discretion of the Planning Board and City Council, be excluded from the coverage of the total gross area percentage. Developers of PD-1s are encouraged to achieve an approximate equal distribution of coverage for each individual phase or subarea of the total PUD.

(D) *Land use density.*

(1) The overall density of a PD-1 shall not exceed the maximum density allowed in the Land Use Plan for dwelling units per acre, excluding public rights-of-way that are subject to impact fee credits. At its discretion, City Council can increase the maximum density when such increase is determined to improve site design and the overall aesthetic of the development.

(2) Lot requirements:

(a) The minimum lot width, in one-family PD-1s shall be 60 feet.

(b) When designing site plans for proposed, one-family PD-1s which will abut existing residential developments, the lot size for the proposed lots which are directly adjacent to the existing residential lots shall be, at a minimum, the same area as the minimum lot size requirement of the existing adjacent residential lots, or 20,000 square feet, whichever is less (i.e. if adjacent to R-1B, then minimum lot size shall be 16,000 square feet).

(c) There shall be a 50-foot buffer between multi-family projects that have buildings with more than two units abutting existing, or approved (but not yet constructed) single family projects.

(E) *Building height regulations.* No building shall be erected in excess of fifty (50) feet in height, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(F) *Landscaping and screening.* See Section 18.7, Screening, Buffering, and Landscaping. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(G) *Exterior lighting.* See Section 18.31, Light and Glare. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Parking.* Parking shall be provided in accordance with Section 18.16, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(I) *Off-street loading.* Spaces shall be provided in accordance with Section 18.15, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(J) *Signs.* In conjunction with and at the same time as submission of a specific site plan application, the applicant may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may submit a proposed sign limitation and control package specifically fashioned for the PUD for separate approval as a minor modification to be considered and decided upon by the Planning Board.

(K) *Variances.* Variances within PD-1 districts shall be applied for in accordance with Section 20.13. They shall be considered on a case-by-case basis for individual parcels. The granting of a variance for an individual parcel shall not be considered approval of a variance for any other parcel within the same or any other district.

17.13

PD-2 PLANNED BUSINESS DEVELOPMENT DISTRICTS

(A) *Intent.* To provide for the development of business, office and commercial establishments within a unified commercial area and plan of development. Within this district, business, office and commercial establishments can be flexibly located to achieve compatible exterior physical design, to utilize the site more efficiently than allowed by standard zoning regulations, to take advantage of natural features of the site, to achieve a higher degree of pedestrian and vehicular separation, to eliminate undesirable features of strip commercial development, to reduce vehicular traffic conflicts within the site and with public rights-of-way, and to enhance compatibility of the development with its surroundings.

(B) Permitted, accessory, and conditional uses.

(1) The permitted, conditional, and accessory uses in PD-2 zoning districts are those uses included as permitted, conditional and accessory uses in Office Building District (O-1),

Highway Business District (B-1), Convenience Shopping District (B-2), Neighborhood Business District (B-3), and Central Business District (B-4). One or more of these permitted, conditional, and accessory uses may be excluded from the specific PD-2 when the City Council determines that the specific permitted, conditional or accessory use is inappropriate for the specific PD-2. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Comprehensive Plan or other approved plans of the City; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(b) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(2) Wireless telecommunication facilities shall automatically be a conditional use permitted in a PD-2 district.

(C) *Building height regulations.* The maximum height of any building in a PD-2 District shall be 70 feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(C) *Landscaping and screening.*

(1) See Section 18.17, Screening, Buffering, and Landscaping. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(2) Any commercial development proposed to be located within 1,000 feet of any existing or proposed residential district or project shall present and implement plans for providing a barrier from noise generated by the activities of the commercial development. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls,

permanent engineered sound barriers, or other methods or materials of equal affect as those listed above. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

(E) *Exterior lighting.* See Section 18.31, Light and Glare. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(F) *Parking.* Parking shall be provided in accordance with Section 18.16, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(G) *Off-street loading.* Spaces shall be provided in accordance with Section 18.15, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Signs.* In conjunction with and at the same time as submission of a specific site plan application, applicants may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may also submit a proposed sign limitation and control package specifically fashioned for the PUD for separate approval as a minor modification to be considered and decided upon by the Planning Board.

17.14 **PD-3 PLANNED INDUSTRIAL DEVELOPMENT DISTRICTS**

(A) *Intent.* To provide for the development of varied or similar industrial establishments within a unified industrial area and plan of development. Within this district, industrial establishments can be flexibly located to achieve compatible exterior physical design, to utilize the site more efficiently than allowed by conventional development standards, to take advantage of natural features of the site, to achieve a higher degree of pedestrian and vehicular separation, to comprehensively provide for necessary services and facilities in accordance with a predetermined plan, to reduce vehicular traffic conflicts within the site and with public rights-of-way, and to enhance compatibility of the development with its surroundings.

(B) *Permitted, accessory, and conditional uses.*

(1) The permitted principal uses in PD-3 Districts include manufacturing, processing, warehousing, industrial service activities, and office and associated activities.

(2) The accessory uses permitted in PD-3 Districts include uses that are customarily incidental to the permitted principal uses identified above, and temporary buildings and uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

- (3) One or more of the permitted and accessory uses identified above may be excluded from a specific PD-3 District when the City Council determines that the specific permitted or accessory use that would otherwise be allowed is inappropriate for that specific PD-3. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:
- (a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the City; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or
 - (b) Will not promote the purpose and objectives of the planned unit development provisions of this Zoning Code; or
 - (c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.
- (4) Wireless telecommunication facilities shall automatically be a conditional use permitted in all PD-3 Districts.
- (5) Upon approval by City Council, specifically listed permitted and accessory uses allowed in commercial districts may be permitted as conditional uses in a PD-3.

(C) *Building height regulations.* The maximum height of any building in PD-3 district shall be 50 feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, satisfies applicable fire and safety regulations, and is necessary for the operation of a proposed industrial use.

(D) *Landscaping and screening.*

- (1) See Section 18.17, Screening, Buffering, and Landscaping. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(E) *Exterior lighting.* See Section 18.31, Light and Glare. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(F) *Parking.* Parking shall be provided in accordance with Section 18.16, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(G) *Off-street loading.* Spaces shall be provided in accordance with Section 18.15, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Signs.* In conjunction with and at the same time as submission of a specific site plan application, applicants may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may submit a proposed sign limitation and control package specifically fashioned to the PUD for separate approval as a minor modification to be considered on a case-by-case basis for individual parcels.

17.15 PD-4 PLANNED MIXED-USE DEVELOPMENT DISTRICTS

(A) *Intent.* To provide for the development of business, office, and commercial establishments, and varied residential living opportunities within a unified plan of development. Within the planned development, selected residential uses may be integrated with commercial, business and office establishments, or developed as a subarea with residential neighborhood characteristics. This district provides for flexibility in locating uses, allows for utilization of the site more efficiently than standard zoning regulations, allows for advantageous use of natural features of the site, and allows for residential uses to be selectively integrated with or separated from business, commercial or office establishments.

(B) *Permitted, accessory and conditional uses.*

(1) The permitted, conditional, and accessory uses in PD-4 zoning districts are those uses included as permitted, conditional, and accessory uses in residential and business districts, excluding manufactured home developments. One or more of these permitted, conditional, and accessory uses may be excluded from the specific PD-4 when the City Council determines that the specific permitted, conditional, or accessory use is inappropriate for the specific PD-4. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(b) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(2) Upon approval by City Council in accordance with Section 17.10, those uses included as conditional uses in residential and business districts are allowed in a PD-4.

(C) *PD-4 residential uses.* Residential uses in PD-4 Districts are intended to be developed as separate, residential subareas of the PD-4. Residential uses shall only be developed in PD-4 Districts when the following conditions are satisfied.

(1) If a non-residential use is planned or developed within a horizontal distance of less than 100 feet from a residential use, residential uses shall be developed only at the second story or higher of buildings in which grade level use is a business, office or commercial PD-4 District permitted, or accessory or approved conditional use.

(2) The overall density of a PD-4 shall not exceed the maximum density allowed in the Land Use Plan for dwelling units per acre. When calculating density, the acreage portion of the calculation shall not include undevelopable areas where the natural or environmental conditions (i.e. steep slopes, floodways, wetlands, etc.) would prevent the construction of residential structures without an unreasonable investment to overcome these natural constraints, or areas dedicated as or to be dedicated as public rights-of-way and private streets.

(3) The minimum lot width in one-family portions of PD-4s, shall be 60 feet.

(4) When designing site plans for proposed, one-family portions of PD-4s which will abut existing residential developments, the lot size for the proposed lots which are directly adjacent to the existing residential lots shall be, at a minimum, the same size as the existing residential lots, or 20,000 square feet, whichever is less.

(5) There shall be a 50-foot buffer between multi-family projects that have buildings with more than two units abutting existing or approved (but not yet constructed) single family projects.

(D) *Building height regulations.* The maximum height of any building in a PD-4 District shall be 50 feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(E) *Landscaping and screening.*

(1) See Section 18.17, Screening, Buffering, and Landscaping. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will

improve the design and functionality of the site, increase benefits to the community that are derived from the development, will not adversely affect surrounding neighborhoods and public facilities.

(2) Any commercial development proposed to be located within 1,000 feet of any existing or proposed residential district or project shall present and implement plans for providing a barrier from noise generated by the activities of the commercial development. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls, permanent engineered sound barriers, or other methods or materials of equal affect as those listed above, which shall be approved by the Planning Department prior to installation. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

(F) *Exterior lighting.* See Section 18.31, Light and Glare. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(G) *Parking.* Parking shall be provided in accordance with Section 18.16, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Off-street loading.* Spaces shall be provided in accordance with Section 18,15, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(I) *Signs.* In conjunction with and at the same time as submission of a specific site plan application, applicants may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may also submit a proposed sign limitation and control package specifically fashioned to the PUD for separate approval as a minor modification to be considered on a case-by-case basis for individual parcels.

(J) *Variances.* Variances of PD-4 districts (in the residential portions only) shall be applied for in accordance with Section 20.13. They shall be considered on a case-by-case basis for individual parcels. The granting of a variance for an individual parcel shall not be considered approval of a variance for any other parcel within the same or any other district.

17.16

PD-5 PLANNED PUBLIC AND PRIVATE BUILDINGS AND GROUNDS DISTRICTS

(A) *Intent.* To provide for the development of public and private use opportunities within a unified plan of development. Within the planned development, selected uses may be integrated with

commercial, business and office establishments, or developed as a subarea with residential neighborhood characteristics. This district provides for flexibility in locating uses, allows for utilization of the site more efficiently than standard zoning regulations, allows for advantageous use of natural features of the site, and allows for public and private uses to be selectively integrated with or separated from business, commercial or office establishments.

(B) *Permitted, accessory, and conditional uses.*

- (1) The permitted principal uses in PD-5 Districts include the following:
 - (a) Churches and other places of worship, including parish and/or parsonage houses;
 - (b) Colleges, schools, and libraries;
 - (c) Public recreational buildings, playgrounds, and athletic fields;
 - (d) Golf courses, including country clubs and swimming pools, including beaches;
 - (e) Cemeteries;
 - (f) Fishing lakes and ponds;
 - (g) Hospitals, sanitariums, charitable institutions, and rest homes;
 - (h) Parks, community centers, and granges;
 - (i) Radio and television transmission stations;
 - (j) Airports;
 - (k) Parking lots;
 - (l) Fraternal organizations, service clubs, and other nonprofit organizations and their buildings, grounds, and meeting places;
 - (m) Nursery centers and daycare centers;
 - (n) Animal hospitals and veterinary clinics;
 - (o) Bingo establishments;
 - (p) Activities by the City, including but not limited to police buildings, fire stations, and other municipal structures and uses; and
 - (q) Banquet facilities with no on-site food preparation.
- (2) A conditional use permitted in PD-5 Districts include banquet facilities with on-site food preparation.
- (3) The accessory uses permitted in PD-5 Districts include uses that are customarily incidental to the permitted principal uses identified above, and temporary buildings and uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- (4) One or more of the permitted, conditional, and/or accessory uses identified above may be excluded from a specific PD-5 District when the City Council determines that the specific permitted, conditional, and/or accessory use that would otherwise be allowed is inappropriate for that specific PD-5. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:
 - (a) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not

been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Land Use Plan or other approved plans of the City; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(b) Will not promote the purpose and objectives of the planned unit development provisions of this Zoning Code; or

(c) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(5) Wireless telecommunication facilities shall automatically be a conditional use permitted in all PD-5 Districts.

(6) Upon approval by City Council, specifically listed permitted and accessory uses allowed in commercial districts may be permitted as conditional uses in a PD-5.

(C) *Building height regulations.* The maximum height of any building in PD-5 district shall be 50 feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, satisfies applicable fire and safety regulations, and is necessary for the operation of a proposed industrial use.

(D) *Landscaping and screening.*

(1) See Section 18.17, Screening, Buffering, and Landscaping. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(E) *Exterior lighting.* See Section 18.31, Light and Glare. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(F) *Parking.* Parking shall be provided in accordance with Section 18.16, Off-Street Parking Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(G) *Off-street loading.* Spaces shall be provided in accordance with Section 18.15, Off-Street Loading Regulations. Upon approval of the City Council, any of these requirements may be modified,

provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(H) *Signs*. In conjunction with and at the same time as submission of a specific site plan application, applicants may submit a proposed sign limitation and control package specifically fashioned for the PUD. The applicant may submit a proposed sign limitation and control package specifically fashioned to the PUD for separate approval as a minor modification to be considered on a case-by-case basis for individual parcels.

ARTICLE 18

GENERAL PROVISIONS

18.01

GENERAL REGULATIONS

Except as herein provided, no building or structure shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or land be used:

(1) Except for a purpose permitted in the district in which the building or land is located;

(2) Except in conformance to the height or bulk limits established herein for the district in which the building or use is located;

(3) Except in conformance to the yard and lot regulations of the district in which the building or use is located;

(4) Except in conformance to the off-street parking and off-street loading space regulations of the district in which the building or use is located;

(5) Unless such building or structure is located on a lot as herein defined and in no case shall there be more than one main building on a lot except as specifically provided hereinafter.

18.02

YARD REQUIRED FOR CORNER AND THROUGH LOTS

(1) In any district the side yard of a corner lot that abuts the side street shall have the same setback requirements as the front yard.

(2) A rear yard shall be provided parallel to and opposite from the front yard.

(3) On through lots the front yard requirements shall apply to all street frontages.

18.03

RESERVED

18.04

LOTS ADJOINING ALLEYS

In calculating the area of a lot that adjoins an alley, for the purpose of applying lot area requirement of this Ordinance, one-half (1/2) of the width of such alley abutting the lot shall be considered as part of such lot.

18.05A

ACCESSORY BUILDINGS

In a residential zone, no garage or other accessory building shall be erected within a required side yard or front yard.

When located at least sixty (60) feet from the front property line and completely to the rear of the main dwelling, the accessory building may be erected not less than eight (8) feet from the side or rear lot lines. Provided that when access to a garage is from an alley, such garage shall be located not less than ten (10) feet from the alley.

When located less than sixty (60) feet from the front property line and not completely to the rear of the dwelling, garages shall be constructed as a part of the main building or connected thereto by a covered breezeway.

Corner lot accessory buildings must be placed within the boundaries of the required rear yard as governed by Article 7, Sec. 7.10, Yard and Lot Requirements.

No detached accessory building measuring up to three hundred (300) square feet in Residential and B-1 Districts shall exceed one (1) story or twelve (12) feet in height and no detached accessory building in Residential and B-1 Districts measuring from 301-600 square feet shall exceed one (1) story or 15' in height.

Detached accessory buildings (including garages) constructed on a one-family lot shall not exceed, in the aggregate, six hundred (600) square feet.

18.05B

SWIMMING POOLS

(1) Every outdoor swimming pool and the equipment and appurtenances thereof shall be completely surrounded by a fence or wall not less than four (4) feet in height, which shall be of a solid woven construction with no one opening dimension exceeding three (3) inches). Fences surrounding pools shall meet the requirements of Section 18.06(1)(a). A dwelling, house, or accessory building may be used as part of such enclosure. The walls of any above-ground pool shall not be deemed to constitute such a fence in and of themselves. All gates or doors opening through such enclosure shall be equipped with a lock and with a self-closing and self-latching device for keeping the gates or doors securely closed at all times when the pool is not in actual use or is unattended.

(2) Above ground pools, the circumference of which are decked and completely fenced, and the top of the fence is not less than four (4) feet above the ground level are considered to meet the fence height requirements. All other provisions in Section 18.05(B)(1) apply.

18.05C

TEMPORARY STORAGE UNITS

A temporary storage unit may be permitted in any residential, commercial, or agriculturally zoned lot provided the following criteria are met:

- (a) A permit is required for the use and placement of a temporary storage unit, if the unit is in place for more than fourteen (14) days.
- (b) Only one unit may be permitted on any property at any time for a maximum of ninety (90) consecutive days, per calendar year.
- (c) Each use requires a permit. Permits can be issued, and units onsite, consecutively, but not concurrently.
- (d) Unit must be placed on a hard surface driveway in the front or side of the building, totally visible from the right-of-way.
- (e) Unit must be placed on private property, behind the sidewalk and out of the right-of-way.
- (f) Unit must maintain a minimum of two (2) feet of separation from any building located on the same parcel as the unit.
- (g) Unit shall remain closed when not being loaded or unloaded.
- (h) No substance may leak from inside the unit. No trash or refuse may be stored within the unit.
- (i) No unit shall be located closer to an adjacent parcel than the required minimum side or rear yard setback for accessory uses in the district the unit is located.
- (j) No unit shall be used for human or animal occupation.

(k) No unit shall be located in such a manner on any property as to create a public nuisance.

18.06

FENCES AND WALLS

(1) Non corner lots:

(a) Side and rear yards:

No fence or wall shall exceed six (6) feet in height unless it is ten (10) or more feet from the property line. In residential zones, chain link, wire or wire mesh fences shall not exceed five (5) feet in height unless ten (10) or more feet from the property line. Side yard fences and walls shall not extend forward of the house or front setback line. All fences shall be constructed with supporting fence posts placed facing the interior of the lot.

(b) Front yard:

No fence or wall shall exceed four (4) feet in height above the ground; be made of wire or chain link; be closer than five (5) feet to the front property line.

(2) Corner and double frontage lots:

(a) Fences and walls on both streets shall meet above front yard requirements.

(3) Swimming pool fence See Section 18.05B Swimming Pool

(4) Ornamental fences and those, which do not actually complete the enclosure of a yard, are considered an "Other" permit for purposes of the required fee.

18.07

REMOVAL OF SOIL, SAND, OR OTHER MATERIAL

The use of land for the removal of topsoil, sand or other material from the land other than materials from basement excavations is not permitted in any zone except under a temporary permit from the Board of Zoning Appeals; this permit may be denied or issued in appropriate cases after the filing of an application accompanied by a suitable agreement or bond that such removal will not cause stagnant water to collect or leave the surface of the land, at the expiration of such permit,

in an unstable condition, or unfit for the growing of turf or for other land uses permitted in the district in which such removal occurs.

18.08

ESSENTIAL SERVICES

Essential services shall be allowed in any district insofar as permitted, authorized, or regulated by law or other ordinance. Buildings required in conjunction with an essential service may be permitted in any district when approved by the Planning Board. In granting such permission, the Planning Board shall take into consideration the location, size, use and effect such building will have on the adjacent land and buildings.

18.09

EXTERNAL EFFECTS

No land, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, or other hazard; noise, brilliant light, vibration; smoke, dust, fumes, odor or other form of air pollution; heat, cold, dampness, electrical or electronic disturbances, nuclear radiation, or any other condition, substance or element as per applicable federal standards to any person or property outside of the premises on which such building, structure or use is located; such uses when lawfully permitted under the provisions of this Ordinance shall be operated in a manner so as to insure that the property rights of all other parcels of land will not be adversely affected to the extent of reducing the enjoyment of property rights thereon.

18.10

OUTDOOR STORAGE AND WASTE DISPOSAL

Every use shall be operated in accord with the following provisions:

(1) No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground except in an industrial district. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision;

(2) All outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence, wall or planting to conceal such facilities from adjacent residential property;

(3) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by wind, flood or

natural causes or forces;

(4) All materials or wastes which might cause fumes, dust or which constitute a fire hazard, or which may be edible or attractive to rodents or insects shall be stored outdoors only in closed containers constructed of impervious material.

18.11

PROJECTIONS INTO REQUIRED YARDS

(1) Chimneys, flues, sills, pilasters, cornices, eaves, gutters, and other similar features may project into a required side yard a maximum of eighteen (18) inches.

(2) Front yards:

No structure may project into a required front yard; however, unroofed porches and steps may extend from the dwelling into the required front yard a maximum of ten (10) feet.

(3) No structure may project into a required side yard except that, where a single lot under one ownership existed in a residential district at the time of passage of this Ordinance, and such lot is of insufficient width to meet the side yard requirements of this Ordinance, the Board of Zoning Appeals may grant a minimum variance to permit the construction of a one-family residence.

18.12

EXCEPTIONS TO HEIGHT LIMITATIONS

Chimneys, domes spires and necessary mechanical appurtenances and radio and television towers may exceed district height limitations.

(1) Public, semi-public or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding ninety (90) feet when the required side and rear yards are each increased by one (1) foot for each foot of additional building height above the height regulations for the district in which the building is located, provided, however, that prior to the issuance of a zoning permit for any structure which is planned to exceed thirty-five (35) feet in height, the Planning Board shall make a finding that any such excessive height will not be detrimental to the public safety; to the light, air or privacy of any other structure or use currently existing or approved for construction.

(2) Commercial radio and television towers shall be located centrally on a continuous parcel having a dimension at least equal to the height of

the tower measured from the center of the base of the tower to all points on each property line.

(3) Except as otherwise provided herein, an amateur radio station antenna shall be erected at heights and dimensions to accommodate such service communications. Required permits must constitute the minimum practicable regulation necessary to accomplish the City's legislative authority purposes.

18.13

TEMPORARY USES

In any district, subject to the conditions stated below, the Community Development Administrator or designee may issue a permit for the following temporary uses:

(1) Temporary building or yard for construction office, material, or equipment, provided such use is adjacent to the construction site and removed when construction is completed. Each permit shall be valid for six (6) months and may be renewed if construction is underway and shall be removed when construction is completed or discontinued for more than thirty (30) days.

(2) Temporary office incidental and necessary to real estate sales and rentals. Each permit shall be valid for one (1) year and may be renewed for one (1) additional year if conditions warrant such renewal.

(3) Building and yard locations shall be subject to such conditions and safeguard as the Community Development Administrator or designee may deem necessary to preserve the character of the surrounding area.

(4) Temporary tents for special events are permitted in residential districts for a maximum of one week per event. A zoning permit is required for temporary tents measuring 400 square feet or larger.

18.14

MAJOR STREET SETBACKS

Any building or structure shall hereinafter be constructed in accordance with the required front yard setback in the district in which it is to be located, measured from the required right-of-way line on major streets and secondary streets designated as such on the Major Thoroughfare Plan.

OFF STREET LOADING REGULATIONS

On the same premises with every building or structure or part thereof, erected and occupied for commerce, industry, public assembly, or other uses involving the receipt or distribution by vehicles of materials or merchandise, there shall be provided and permanently maintained adequate space for standing, loading, and unloading services in order to avoid undue interference with public use of the streets or alleys in conformance to the following:

(1) General Provisions:**(a) Screening:**

Off street loading spaces that adjoin or are across a street or alley from property zoned for residential use, shall have a dense evergreen planting, fence, masonry wall or such other screening, as may be determined by the Planning Board. The Planning Board shall also determine the height, location and density of screening used to provide adequate protection to adjoining property.

(b) Entrances and Exits:

Off-street loading spaces shall be provided with entrances and exits not less than twelve (12) feet in width and so located as to minimize traffic congestion.

(c) Dimensions:

Each off-street loading space shall be not less than ten (10) feet in width, twenty-five (25) feet in length and fifteen (15) feet in height, exclusive of access drives.

(d) Projections into yards:

Off street loading spaces may occupy all or any part of any required rear yard space.

(2) Amount of Loading Space Required:

The minimum amounts of off-street loading space shall be provided according to the table below. An area adequate for maneuvering, ingress and egress shall be provided in addition to the required loading space.

<u>Sq Ft of Gross Floor Area</u>	<u>Required # of Spaces</u>
(a) Up to 10,000 sf	1
(b) 10,001 to 20,000 sf	2
(c) 20,001 to 40,000 sf	3
(d) 40,001 to 75,000 sf	4
(e) 75,001 to 125,000 sf	5
(f) For each add'l 50,000 sf	1 add'l space

18.16

OFF STREET PARKING REGULATIONS

Hereafter no building shall be erected or altered, and no land used unless there be provided adequate off-street parking space or spaces for the needs of tenants, personnel, and patrons together with means of ingress or egress.

(1) General Provisions:

(a) Single Family Residential off-street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve and subject to the provisions of Sections 18.03, 18.04 and 18.05, Accessory Buildings, of this Ordinance.

(b) Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.

(c) Off street parking existing at the effective date of this Ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

(d) Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

(e) In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Board of Zoning Appeals may grant an extension.

(f) The storage or sale of merchandise or the commercial repair of vehicles is prohibited.

(g) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Board of Zoning Appeals considers as being similar in type.

(h) Ingress and Egress:

A suitable means of ingress or egress for vehicles to premises used for parking shall be provided and shall open directly from and to a public street, alley, or highway. The width of any exit, or entrance, adjoining property or opposite property zoned for residential uses shall be approved by the Traffic Engineer or Planning Board prior to obtaining any permit; therefore, the Traffic Engineer or the Planning Board may require the owner to provide acceleration and/or de-acceleration lanes where traffic volumes indicate the need.

(i) Fencing, wheel stops, or other physical barriers shall be provided for all boundaries of the parking area except at points of ingress and egress to prevent encroachment of vehicles.

(j) Pavement:

(1) All parking lots or parking spaces shall be surfaced with a hard dust-free surface in conformance to the standards of the Bellbrook Service Department. For zoning purposes, compacted gravel is not considered a dust-free surface;

(2) The parking of vehicles on grass or other areas not designated for parking shall be prohibited.

(k) Lighting:

If the parking lot is to be open for use after dark, it shall be provided with not less than one half (1/2) lumen of light per square foot of parking lot surface or the recommendation of the

City Engineer. Lights shall be shielded so as not to shine directly, or in an offensive manner, on the adjoining residential property.

(l) Screening:

When a parking lot abuts a residential zone, there shall be permanently maintained along such boundary, screening as provided in Section 18.17.

(m) Plot Plan to be Filed:

Prior to constructing an accessory parking lot, the owner or person in charge of the land to be used for parking shall submit a plot plan to the Community Development Administrator who will submit same to the Planning Board, the Bellbrook Service Department, Bellbrook Police Department or other agencies for their review and recommendations. Such plot plan shall show the boundaries of the property, location of adjacent houses, parking spaces, circulation patterns, drainage plan and construction plan for boundary walls and planting plan.

(n) Restricted Accessory Parking Areas:

The Board of Zoning Appeals may permit accessory parking within an adjacent lot zoned for residential uses, providing:

- (1) Such lot is necessary for the public convenience and will not have an adverse effect on adjacent properties.
- (2) A public hearing is held in accordance with the procedure given in Section 20.08.
- (3) Compliance with all provisions of Section 18.16 of this Ordinance.
- (4) No parking shall be permitted between the street line and the building line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

(5) A dense evergreen planting with a minimum height of four (4) feet and a mature height of at least five feet, six inches (5'6"), or solidly constructed decorative fence shall be permanently maintained along the mutual boundary of the restricted accessory parking area and adjacent land zoned for residential uses except for the portion of such boundary located within a required front yard.

(6) Whenever a lot located in a residential zone is used for accessory parking purposes and is located across the street from land in a residential zone, that portion of the lot used for parking purposes shall be screened from the street as specified in paragraph five (5) above, except for access drive. Such screening to be placed along the setback line.

(7) Ingress and egress for vehicles to any premises used for parking under conditional use permit by the Board of Zoning Appeals shall be by means of streets or alleys through business or industrial areas, not by means of streets or alleys through residential areas.

(o) When Off Street Parking Cannot be Located on the Lot with the Use:

Where off street parking required in connection with a use cannot be located on the lot with the use, such parking may be provided off the lot, subject to the following requirements:

(1) If the use is multi-family, hotel, motel or tourist home, the off-lot spaces shall be within two hundred (200) feet of the principal entrance or the entrance for individual occupants for whom spaces are reserved.

(2) If the use is other than multi-family, hotel, motel or tourist home, the furthest portion of the parking lot shall be within five hundred (500) feet of an entrance to the establishment.

(3) Distances indicated above shall be measured along routes generally available to the pedestrians involved.

(4) If and so long as satisfactory attendant parking service is provided, or if for employees of the establishments, parking spaces may be at greater distances than those indicated above.

(5) Such off-lot spaces shall be located only in districts in which similar off-street parking is permitted.

(6) The off-lot parking area shall be:

(A) Held in fee simple by the same owner as the use requiring the off-street parking space or,

(B) Under lease, rental, or other form of agreement satisfactory to the administrative official as assuring continuing availability for required off street parking for the use, or

(C) Established by the City for the purpose of providing such off-lot parking for specific areas and/or land uses and with number of spaces allocated by specific individual lots. Where, and to the extent that such lots serve other uses, spaces allocated may be similarly marked and reserved, in whole or in part, or may in whole or in part be made available for general public use.

(2) AMOUNT OF OFF-STREET PARKING SPACE REQUIRED:

The amount of required off street parking spaces for new uses or building additions thereto and additions to existing buildings, shall be determined in accordance with the following minimum parking provisions provided that no parking area shall project into a required front yard in any residential district or be permitted between the curb line and building line in any district, except as hereinafter noted.

(a) One Family Dwelling:

Two (2) spaces for each family unit plus one (1) space for each roomer, one (1) of which may project into the required front yard.

(b) Two Family Dwelling:

Two (2) parking spaces for each family, plus one (1) space for each roomer.

(c) Multiple Family:

Two (2) parking spaces per dwelling unit plus one (1) space per each employee.

(d) Apartment Hotel:

One (1) space per apartment, plus one (1) for each employee.

(e) Housing for the Elderly:

One (1) parking space for each two (2) units, plus one (1) space for each employee.

(f) Boarding House:

One (1) parking space for each sleeping room.

(g) Hotel or Motel:

One (1) space per unit, plus one (1) for each employee.

(h) Churches:

One (1) parking space for each three (3) seats in the main building.

(i) Hospitals:

One (1) for each two (2) beds, plus one (1) for each staff doctor, plus one (1) for each two (2) full time employees on shift, including nurses.

(j) Sanitariums, Convalescent Homes or Children's

Homes:

One (1) for each two (2) beds, plus one (1) for each two (2) employees.

(k) Elementary and Junior High Schools:

One (1) parking space for each employee, plus parking space for each eighty (80) square feet in the main auditorium, not containing fixed seats, or one (1) space for six (6) fixed seats in the main auditorium whichever is greater.

(l) Senior High Schools:

One (1) parking space for each employee, plus one (1) parking space for each ten (10) students, or one (1) parking space for each eighty (80) square feet of floor area in the main auditorium not containing fixed seats, or one (1) parking space for each six (6) fixed seats in the main auditorium, whichever is greater.

(m) College and Business University:

One (1) for each two (2) employees, plus one (1) for each three (3) students.

(n) Libraries, Museums or Art Galleries:

One (1) for each six hundred (600) square feet of floor area, plus one (1) for each three (3) employees.

(o) Post Office:

One (1) for each five hundred (500) square feet of floor area, plus one (1) for each three (3) employees.

(p) Private Clubs, Lodges:

One (1) parking space for each three (3) persons allowed by fire, health or building codes.

(q) Bowling Alleys:

Five (5) parking spaces for each alley.

(r) Public Golf Courses:

Six (6) parking spaces for each golf hole, plus one (1) space for each employee.

(s) Sports Arenas (Indoor), Auditoriums, Theatres, Assembly Halls (other than in schools):

One (1) parking space for each two and one half (2 ½) seats, plus one (1) for each two (2) employees.

(t) Stadium, Sports Arena or Similar Place of Outdoor Assembly:

One (1) parking space for each three (3) seats.

(u) Professional Offices, Medical Clinics:

One (1) parking space for each two hundred fifty (250) square feet of floor area with a minimum of twelve (12) spaces. When professional offices are maintained in a residence as a home occupation, one (1) parking space for each one hundred (100) square feet or major fraction thereof of the residence used as office area shall be provided in addition to that required for the residing family or families.

(v) Office Building:

One (1) parking space for each two hundred (200) square feet of gross floor area excluding any floor space used for parking.

(w) Banks, Dry Cleaning, Laundries and Similar Service Business:

One (1) parking space for each two hundred fifty (250) square feet of floor space.

(x) Drive-In Banks with Inside Customer Service:

Five (5) spaces for each teller window, plus one (1) for each employee; without inside customer service, one (1) space for each employee.

(y) Auto Service Station:

Six (6) spaces per bay.

(z) Automobile Sales and Service Garage:

One (1) parking space for each two hundred (200) square feet of floor area in the main display room plus one (1) space for each employee.

(aa) Used Car Lot:

One (1) space for each fifteen hundred (1500) square feet of lot area.

(bb) Barber Shops and Beauty Parlors:

One (1) for each chair, plus one (1) for each employee.

(cc) Drive-In Eating Establishments and Fast-Food

Establishments (where food is served directly to customers in parked motor vehicles, or food is served within the structure but may be consumed within the structure or on the premises outside the structure):

Three (3) parking spaces for each one hundred (100) square feet of gross floor area.

(dd) Furniture and Appliances, Household Equipment, Decorator, Electrician, Shoe Repair:

One (1) parking space for each eight hundred (800) square feet of floor area plus one (1) space for each two (2) employees.

(ee) Laundromats:

One (1) space for each two (2) washing machines.

(ff) Mortuaries or Funeral Homes:

One (1) parking space for each fifty (50) square feet of floor area in the slumber rooms, parlors, or individual funeral service rooms.

(gg) Restaurants, Taverns, Taprooms and Wine Bars: One (1)

parking space for each one hundred (100) square feet of gross floor area.

(hh) Retail Stores and Shopping Centers:

Six (6) parking spaces for each one thousand (1000) square feet of gross floor area.

(ii) Contractor Yards or Plant Storage Yard:

One (1) space for each three (3) employees.

(jj) Warehouses, Wholesale Stores:

One (1) parking space for each eight hundred (800) square feet of floor area.

(kk) Manufacturing Plants or Research

Laboratories:

One (1) space for each one and one half (1 ½) employees per largest work shift.

(ll) In the case of a use not specifically mentioned, the requirements for off-street parking shall be the same as for a similar use specifically mentioned, similarly, to be determined by the Community Development Administrator or designee.

(mm) Brewpubs, Microbreweries, Microwineries, and

Microdistilleries: One (1) parking space for each one hundred (100) square feet of gross floor area for restaurant and/or retail service and one (1) parking space for each three hundred (300) square feet of gross floor area for production.

SCREENING, BUFFERING, AND LANDSCAPING

Hereafter no buildings or structures shall be erected, altered, or enlarged nor shall land be used for any non-residential use on a lot that adjoins or faces any residential district until a plan for screening has been submitted and approved by the Community Development Administrator or Planning Board.

(1) Screening shall be provided for one (1) or more of the following purposes:

(a) A visual barrier to partially or completely obstruct the view of structures or activities;

(b) As an acoustic screen to aid in absorbing or deflecting noise;

(c) For the containment of debris and litter.

(2) Screening may be one of the following or a combination of two (2) or more:

(a) A solid masonry wall;

(b) A solidly constructed decorative fence;

(c) Louvered fence;

(d) Dense evergreen plantings;

(e) Deciduous trees and shrubs.

(3) Location of Screening:

Whenever any non-residential use abuts a residential district, a visual screening wall, fence, or a dense planting shall be erected or placed along such mutual boundary lines. Where a new residential or commercial development abuts an existing, or approved but unconstructed residential development, a fifty-foot (50') landscape buffer shall be required. At its discretion, City Council can determine the appropriate landscape buffer in planned unit development districts.

(4) Height of Screening:

Visual screening walls, fences or plantings shall be at least five feet, six inches (5'6") high except in required front yards when maximum height shall be not greater than two feet (2'0").

(5) Depth or Width of Screening:

Screening for purposes of absorbing or deflecting noise shall have a depth of at least fifteen (15) feet of dense plantings or a solid masonry wall in combination with decorative plantings.

(6) Protection:

Whenever required screening is adjacent to parking areas or driveways, such screening shall be protected by bumper blocks, posts or curbing to avoid damage by vehicles.

(7) Landscaping:

All yard areas not used for buildings, parking, or ways for pedestrians or vehicles, shall be planted with a mix of grass, shrubbery, shade trees, ornamental trees, evergreen trees, perennials, annuals, or ground covers, as to provide attractive green areas. This requirement applies to all zoning districts.

18.18

RESERVED

18.19

SEPTIC TANKS OR WELLS

Any residential construction utilizing wells and/or septic tanks shall be situated on a lot having a minimum site area of three fourth (3/4) of an acre.

18.20

PERMITTED SIGNS

Subsection 18.20A applies and governs signs in all districts. Subsection 18.20B modifies and delineates special controls for signs in the Old Village District.

18.20A

PERMITTED SIGNS (GENERAL)

(1) PURPOSE:

The purpose of this sign section of this Ordinance is to:

(a) Protect each person's Constitutional right to freedom of speech; and

(b) Protect the public health, safety, convenience, comfort, prosperity, and general welfare.

(2) OBJECTIVES:

This section, 18.20A, regulates the time, place, and manner in which signs are displayed to achieve the following:

(a) Primary Objectives:

(1) Permit non-commercial signs on any property within the City;

(2) Permit signs, which do not create a potential hazard to the public safety; and

(3) Permit commercial signs appropriate to the land use and/or zoning classification of each property within the City.

(b) Secondary Objectives:

(1) To create a more aesthetically pleasing City; and

(2) To eliminate visual clutter within the City.

Commentary: A fundamental concept to understanding this sign section 18.20A of the Zoning Ordinance is the classification of a sign into the following two broad categories: (1) permanent versus temporary; and (2) commercial versus non-commercial.

(3) DEFINITIONS:

(a) Building Frontage:

Building frontage shall mean the maximum horizontal width of the ground floor of a building that approximately parallels and faces an adjacent public right-of-way of at least fifty (50) feet in width. In the case of a building with multiple occupants, the

maximum horizontal width of the portion of the building where each occupant's main entrance is located shall be considered that occupant's separate and distinct building frontage.

In the case where the ground floor of a building is occupied by two (2) or more different tenants, the portion of the building frontage occupied by each tenant shall be considered a separate and distinct building frontage.

Corner lots and through lots shall be considered to have only one (1) distinct and separate building frontage.

(b) Commercial Message:

Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

(c) Legible:

A message that is legible from a particular location is one that can be comprehended by a person with eyesight adequate to obtain a current Ohio driver's license standing in the public right-of-way way or other location from which legibility is to be determined. Where such facts are material, it shall be presumed that the observation takes place in daylight hours, and that the person making the observation is standing and is between five feet two inches (5'2") and six feet (6') tall.

(d) Localized Background:

A localized background is any distinctive material, pattern or color that provides a visual background for the sign message and that distinguishes a sign from a larger surface against which it is placed.

(e) Sign:

A sign shall mean any visual communication device utilizing a letter, a word, a number, a symbol, a picture, an object, color, illumination or motion, the major function of such device being to convey visual information to or attract the visual attention of:

(1) A person within a public right-of-way; and/or

(2) A person not on the premises on which the visual communication device is located.

The term "sign" shall specifically include the following:

(1) Any localized background which is a part of or is placed in conjunction with a sign for the purpose of improving the visibility of the sign; and,

(2) Any artificial illumination device whose major function is to provide illumination of the visual information conveyed by a sign.

The following are types of signs:

(1) Directional Signs:

A directional sign is a sign that conveys information that pertains to the direction of traffic movement onto or within a premises.

(2) Ground Signs:

A ground sign is a sign not attached to a building.

(3) Projecting Sign:

A projecting sign is a sign supported by a building wall or column and extending a distance exceeding twelve (12) inches from the wall.

(4) Roof Sign:

A sign mounted vertically on a pitched roof which overhangs a wall at ground level.

(5) Wall-Sign:

A wall sign is a sign which is located on or formed by the surface of the wall of a building. A mansard roof facade on a building shall be considered part of the wall.

(6) Portable Sign (prohibited):

Any sign not attached to the ground or other permanent structure or a sign to be transported, including, but not limited to, signs designed to be transported by means of wheels; balloons used as signs, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. This definition does not include “sandwich board” signs.

(f) Sign Area:

The sign area shall mean the total area in square feet of all the visible information-conveying surface area(s) of a sign including all localized backgrounds but excluding all materials not conveying significant visual information and whose major function is providing structural support for the sign. An irregular shaped sign surface area shall be measured by calculating the surface area of a simple plane or solid geometric shape, which approximates the size and shape of the sign surface area. The area of individual elements of a sign placed against a non-localized background such as letters placed against a wall, shall be measured by calculating the area of the smallest single rectangle which would completely enclose all elements of the sign.

(g) Sign-Height:

Sign height shall mean the maximum vertical height in feet that the highest part of a ground sign extends above the surface of the ground underneath the sign.

(h) Sign - Permanent:

A permanent sign is a sign permitted by this Ordinance to be located on a premises which is permanently anchored for an unlimited period of time.

(i) Sign-Sandwich Board:

A temporary sign with two (2) hinged boards which can be

placed on the ground. A sandwich board sign is not considered a portable sign under this Ordinance. A sandwich board shall only be displayed during the hours in which the business is open.

(j) Sign - Temporary:

A temporary sign is a movable sign permitted by this Ordinance to be located on a premises for a limited period of time. A temporary sign is not considered a portable sign under this Ordinance.

(a) any sign located on a premise in conjunction with any election is considered a temporary sign under this Ordinance and must conform to all standards of a temporary sign, except; any temporary sign in conjunction with any election shall only be displayed thirty (30) days prior to that election and must be removed within two (2) days after that election on any non-residential property.

(4) SIGNS EXEMPT FROM ORDINANCE:

The following signs are not subject to the provisions of this Ordinance:

(a) Signs Inside Buildings:

Any sign located inside or behind a window shall not be subject to any provision of the Ordinance, except the Prohibited Signs and Sign Characteristics contained in this Ordinance.

(b) Other Signs:

Other signs that are not legible from the public right-of-way or from private property other than that on which the building is situated.

(5) SIGNS PARTIALLY EXEMPT FROM ORDINANCE:

The following signs may be erected or constructed without a permit, but may be subject to additional regulations under this section.

Where a sign is erected pursuant to a state statute or a court order, the sign may exceed the size standards of this Ordinance or otherwise deviate from the standards set forth in this Ordinance to the extent that the statute or court order expressly requires the larger size or other deviation. In all other respects, such signs shall conform to the standards of this Ordinance:

(a) Signs conforming to the Manual of Uniform Traffic Control Devices and bearing no commercial message;

(b) Signs installed by employees or officials of a state or federal agency in the course of their governmental duties and bearing no commercial message;

(c) Signs installed by employees or officials of the City of Bellbrook or of Greene County in the course of their governmental duties and bearing no commercial message;

(d) Signs required by a state or federal statute;

(e) Signs required by an order of a court of competent jurisdiction;

(f) Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message as necessary to identify the use; and

(g) Signs installed by a transit company with a franchise or other right to operate in the City of Bellbrook, where such signs are installed along its routes and relate to schedules or other information about the transit route.

(6) SIGNS PERMITTED IN PUBLIC RIGHT-OF-WAY.

The following signs, and only the following signs, shall be allowed in the public right-of-way:

(a) Signs conforming to the Manual of Uniform Traffic Control Devices and bearing no commercial message;

(b) Signs installed by employees or officials of a state or federal agency in the course of their governmental duties and bearing no commercial message;

(c) Signs required by a state or federal statute;

(d) Signs installed by employees or officials of the City of Bellbrook or Greene County;

(e) Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such message is necessary to identify the use;

(f) Signs installed by a transit company with a franchise or other right to operate in Bellbrook, where such signs are installed along its routes and relate to schedules or other information about the transit route; and

(g) In the Old Village District only, sandwich board signs located on sidewalks in conformance with Sec. 18.20B. For display of non-commercial sandwich board signs, see Section 18.20A(9)(h).

(7) SIGNS ALLOWED WITHOUT A PERMIT:

The following signs shall be exempt from the permit requirements of this Ordinance but shall be subject to all other standards of this Ordinance:

(a) Signs installed by employees or officials of the City of Bellbrook that do not fall under one of the broader exemptions of this section;

(b) Detached signs smaller than two (2) square feet in area and less than four (4) feet in height, and containing no commercial message;

(c) Wall signs smaller than two (2) square feet in area and containing no commercial message; and

(d) In residential districts only, temporary signs allowed by this Ordinance that have no more than six (6) square feet of sign

area per side or (twelve (12) square feet total sign area.

(8) PROHIBITED SIGNS AND SIGN CHARACTERISTICS:

The following signs are prohibited in the City:

(a) Any sign erected at or near any intersection of any street in such a manner as to obstruct free and clear vision between the height of three (3) feet from the ground and the height of nine (9) feet from the ground;

(b) Any sign which by reason of any combination of location, position, shape, or color, may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or which makes use of the word "stop"; "look"; or "danger"; or other word phrase or symbol in such a manner as to interfere with, mislead, or confuse traffic;

(c) Any lighter-than-air or inflatable sign situated on, attached or tethered to a premises;

(d) Any sign, which conveys at any time the visual sensation or appearance of motion, or presents a non-constant visual image to the eye of an observer;

(1) 'Visual sensation or appearance of motion' shall not include a change of message that is completed in less than one (1) second. The change of message shall appear as a seamless transition from one message to the next and shall include no special visual effects: and

(2) A message display period of five minutes or longer shall constitute a constant visual image;

(e) Any sign with lighting directed out or away from the sign so that the light is cast directly onto or toward a public street or sidewalk or toward private property other than the premises on which the sign is located;

(f) Any sign utilizing a fixed or mobile beacon, strobe light, search light, signaling light, spotlight, or similar apparatus, equipment or device, which is directed above or outside of a premises in such a manner so as to attract an unusual amount of visual attention of persons not located on the premises;

(g) Any sign or part thereof which utilizes flame as a source of light;

(h) Any sign utilizing an energized lamp bulb where the surface of the bulb is directly visible to persons not located on the premises;

(i) Any sign mounted on a roof, attached to a roof or integrated into a roof except as permitted for certain special cases as allowed under §18.20A(12)(c)(2), and for certain buildings in the B-4 zoning district of the Old Village District, and as permitted more fully set forth in §18.20B(3)(d), and

(j) Any portable sign.

(9) GENERAL PROVISIONS:

A sign shall be designed, erected, altered, reconstructed, moved, and maintained in accordance with the provisions of this section of this Ordinance unless specifically modified by another section of this Ordinance.

(a) Permits Required:

A Zoning Permit shall be obtained for erection, construction, relocation, or alteration of any permanent or temporary sign unless exempted from this Ordinance or from permit requirements by the express terms of this Ordinance. Installation of any sign shall conform to all City zoning, building, electrical and fire codes.

(b) Non-Conforming Signs:

See: Sec. 18.20B, Non-Conforming Signs, Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures; Non-Conforming Uses of Structures and Premises and Non-Conforming Characteristics of Use, Section 18.21 of this Ordinance.

(c) Maintenance of Signs:

Every sign which requires a sign permit, shall be maintained in a safe, presentable, and good structural condition at all times,

including the replacement of a defective part, painting, cleaning, and other acts required for the maintenance of said sign. Permits shall not be required for:

(1) Routine maintenance of any sign, not involving structural changes to the sign; and

(2) Changes of message, either manually or electronically, on an electronic message sign, changeable copy sign, subject to limitations of this Ordinance on the frequency of message changes.

(d) Dangerous or Defective Signs:

A sign in dangerous or defective condition shall not be permitted on any premises. Any such sign shall be removed or repaired promptly upon receipt of notice from the City Manager or his/her designee. The City Manager may immediately remove or cause to be removed any dangerous or defective sign which, in the opinion of the City Manager, creates an immediate or potential danger to persons or property due to structural deficiencies, inadequate maintenance, or because of the location of the sign.

(e) Location of Signs:

All signs shall be located on private property and a minimum of 15 feet from the paved edge of the road. Signs shall not be permitted in the public right-of-way nor in a median, sidewalk or tree lawn area. Signs shall not be affixed to any improvement (utility pole, traffic control device, bridge, guardrail, or other safety barrier) within such right-of-way or within required sight distance of or on City-owned property or buildings, except within lawful proximity of polling places on Election Day, under rules established by the Greene County Board of Elections.

Any sign erected in the public right-of-way or on public property in violation of this Ordinance shall be deemed abandoned and may be removed by the City Manager or his/her designee without notice or compensation to the owner. Removal by a City official shall not affect the penalties applicable for the unlawful erection or placement of a sign in the public right-of-way or on public property.

(f) Duration of a Permanent Sign:

Any sign permitted in this Ordinance shall be considered to be a permanent sign unless otherwise stated in this Ordinance.

(g) Sign Location with Respect to Frontages:

Allowed signs in Business, Industrial or other non-residential Districts are determined in part by the frontage of the premises on particular roads; where the sign area is calculated based on the frontage on a particular road or street, the allowed sign shall be located along that road or street frontage, regardless of the fact that the premises may have frontage on other streets or roads.

(h) Non-Commercial Messages:

Any sign allowed under this Ordinance or a predecessor ordinance, by sign permit, by conditional use permit, or by variance, may contain, in lieu of any other message or copy, any non-commercial message that does not direct attention to a business operated for profit, or to a product, commodity, or service for sale or lease, or to any other commercial interest or activity, so long as said sign complies with the size, height, area, and other requirements of this Ordinance. The substitution of a non-commercial message may be made without any additional approval or permitting.

(i) Commercial Messages:

All commercial information conveyed by any sign permitted under this Ordinance must pertain to commercial activities lawfully conducted on the premises on which the sign is located. For the purposes of this provision, the offering of a property for sale or lease shall be considered a commercial activity conducted on the premises.

(j) Ground Sign:

(1) Setback:

Unless otherwise stated in this Ordinance, any temporary or permanent ground sign or any part

thereof shall be set back a minimum distance of ten (10) feet from any right-of-way.

(2) Lot Frontage:

A ground sign shall be allowed only on a lot which has lot frontage on a public right-of-way. Corner lots and through lots shall have only one (1) lot frontage.

(3) Landscaping Requirements:

A permanent ground sign shall require a single continuous landscaped area to be maintained beneath the sign in accordance with the following standards:

(A) The minimum size of landscaped area shall be equal to the total area of the sign; and

(B) The landscaped area shall include living plantings aesthetically located and maintained. The use of concrete, asphalt, or any other paved surface inside the required landscaped area beneath the sign shall be prohibited.

(k) Projecting Signs:

Where projecting signs are allowed, they shall conform with the following standards. A projecting sign:

(1) Shall have vertical clearance of at least ten (10) feet above a sidewalk and fifteen (15) feet above a driveway;

(2) Shall be attached to the building wall at an angle of ninety (90) degrees and no part of the sign shall project more than four (4) feet from the wall; and

(3) Shall not extend higher on the wall than the bottom height of any second story window.

(l) Wall Signs:

Where wall signs are allowed, they shall conform with the following standards. A wall sign:

- (1) Shall not extend more than twelve (12) inches from the wall of the building upon which it is mounted;
- (2) Shall be inclined from the vertical only to the extent necessary for conformity to the general contour of the wall to which the sign is mounted;
- (3) Shall not extend above the top of the wall and shall not extend beyond the limits of any wall to which they are attached;
- (4) Shall not obscure an architectural feature, such as but not limited to doors, windows or trim; and
- (5) Shall have hidden structural supports.

(m) Temporary Signs:

The illumination of a temporary sign shall be prohibited.

(10) SIGNS PERMITTED FOR AGRICULTURAL ZONES:

(a) Permanent Signs, Generally:

- (1) Permanent signs requiring a permit shall be prohibited on vacant or undeveloped land in agricultural zoning districts; and
- (2) Permanent signs shall be allowed on a premises with a permanent building designed for human use or occupancy (not including storage or equipment sheds) in accordance with the further provisions of this subsection.

(b) Occupied Land:

(1) Permanent Signs:

One (1) permanent ground sign shall be allowed for each occupied premises in the agricultural zoning district, subject to the following standards:

(A) The permitted sign area shall not exceed one (1) square foot of sign area per ten (10) linear feet of lot frontage and shall not exceed thirty-two (32) square feet per side or sixty-four (64) square feet total sign area;

(B) The sign shall not exceed six (6) feet in height;

(C) The sign shall be subject to the setback standards applicable to ground signs in other zoning districts, as set forth under "General Provisions"; and

(D) The sign may bear any non-commercial message or a commercial message related to agricultural activity conducted or agricultural products sold on the premises.

(2) Temporary Signs:

Temporary signs shall be allowed in the agricultural zoning district subject to the following:

(A) Temporary signs shall be ground signs and shall not be attached to buildings, fences, or walls;

(B) Such temporary signs shall not exceed twelve (12) square feet in area per side, or twenty-four (24) square feet total sign area, and shall not exceed six (6) feet in height;

(C) One (1) temporary sign bearing a commercial message related to the sale, lease or rental of the premises is allowed per frontage at any time;

(D) On occupied property, one (1) temporary sign may bear a commercial message related to temporary commercial activities lawfully conducted on the premises, including the occasional sale of personal property through a

garage or yard sale, but no premises shall have a temporary sign bearing a commercial message (other than one related to the sale or lease of the property) for more than ninety (90) days per calendar year; and

(E) The sign shall be located outside any public right-of-way but shall not be subject to the general ground sign setback provision.

(11) SIGNS PERMITTED FOR RESIDENTIAL ZONES:

(a) Permanent Signs Generally:

(1) Permanent signs, other than neighborhood entrance signs that conform to Section 11(f), requiring a permit shall be prohibited on vacant or undeveloped land in residential zoning districts; and

(2) Permanent ground signs are prohibited in all residential districts with the exception of permanent neighborhood entrance signs (f) and churches, schools or institutions (d); permanent wall signs are allowed in such districts in accordance with the further provisions of this section (11).

(b) Occupied Lots in Single- or Two-Family Residential Zones:

(1) Generally:

(A) No sign may be directly illuminated;

(B) Projecting signs shall be prohibited; and

(C) The provisions of this subsection (b) apply to individual occupied residential lots in these districts; subsection(d), (e) and (f) of this section apply to signs in other locations in these districts.

(2) Temporary Ground Signs:

No permanent ground signs shall be allowed. The following rules apply to temporary ground signs:

(A) Temporary signs shall be ground signs and shall not be attached to buildings, fences, or walls;

(B) Such temporary signs shall not exceed six (6) square feet per side, or twelve (12) square feet total sign area, and shall not exceed four (4) feet in height;

(C) One (1) temporary sign bearing a commercial message related to the sale, lease or rental of the premises is allowed per frontage per premises at any time;

(D) One (1) temporary sign may bear a commercial message related to temporary commercial activities lawfully conducted on the premises, including the occasional sale of personal property through a garage or yard sale, but no premises shall have a temporary sign bearing a commercial message (other than one related to the sale or lease of the property) for more than thirty (30) days per calendar year;

(E) The sign shall be located outside any public right-of-way but shall not be subject to the general ground sign setback provision.

(3) Wall Sign:

Only one (1) wall sign shall be permitted on each dwelling unit and each sign shall not exceed one (1) square foot. The wall sign may bear any non-commercial message or a commercial message pertaining to a commercial activity lawfully conducted on the premises.

(c) Multi-Family Residential Zones:

(1) Generally:

(A) No sign may be directly illuminated;

(B) Projecting signs shall be prohibited; and

(C) The provisions of this sub-, (c) apply to individual occupied residential premises in these districts; sub-sections (e), (e) and (f) of this section apply to signs in other locations in these districts.

(2) Temporary Ground Signs:

No permanent ground signs shall be allowed. The following rules apply to temporary ground signs:

(A) Temporary signs shall be ground signs and shall not be attached to buildings, fences, or walls;

(B) Such temporary signs shall not exceed six (6) square feet per side, or twelve (12) square feet total sign area, and shall not exceed four (4) feet in height;

(C) One (1) temporary sign bearing a commercial message related to the sale, lease or rental of the premises is allowed per frontage per premises at any time;

(D) One (1) temporary sign may bear a commercial message related to temporary commercial activities lawfully conducted on the premises, including the occasional sale of personal property through a garage or yard sale, but no premises shall have a temporary sign bearing a commercial message (other than one related to the sale or lease of the property) for more than thirty (30) days per calendar year;

(E) The sign shall be located outside any public right-of-way but shall not be subject to the general ground sign setback provision.

(3) Wall Sign:

Only one (1) wall sign shall be permitted on each dwelling unit and each sign shall not exceed one (1) square foot. The wall sign may bear any non-commercial message or a commercial message pertaining to a commercial activity lawfully conducted on the premises.

(d) Signs for Institutional Uses:

Any school, house of worship, recreation center or other institutional use, including the Old Village District, may have the same signage allowed for any other use in the same zoning district in which it is located or the signs listed in paragraphs (1), (2) and (3), in this subsection:

(1) One (1) detached ground sign, not to exceed thirty-six (36) square feet per side or seventy-two (72) square feet total sign area, or six (6) feet in height. Such signs may be illuminated;

(2) The number of wall signs shall be limited to one per each wall of the building and the total combined area of all wall signs shall not exceed one (1) square foot of sign area per linear foot of building frontage; and

(3) Signs conforming to the *Manual of Uniform Traffic Control Devices* and containing no commercial message are permitted in required off-street parking areas.

(e) Temporary Subdivision Signs:

As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign per subdivision is permitted. There shall in no case be more than one (1) such sign for each fifty (50) lots in a proposed subdivision. Such sign shall not be illuminated and shall not exceed thirty-two (32) square feet per side, or sixty-four (64) square feet total sign area. Such signs shall be removed upon the sale of ninety percent (90%) of the lots in the subdivision.

(f) Permanent Neighborhood Entrance Signs:

Permanent neighborhood or multi-family monument signs, either illuminated or non-illuminated, are permitted. Such signs may include a masonry wall, landscaping or other similar materials or features. Such signs shall be located at the principal entrance(s) to the neighborhood on private property and not in the public right-of-way. Such signs may not exceed thirty-two (32) square feet per side or sixty-four (64) square feet total sign area, and six (6) feet in height.

(12) SIGNS PERMITTED FOR BUSINESS, INDUSTRIAL, OR OTHER NON-RESIDENTIAL ZONES (EXCLUDING THE OLD VILLIAGE DISTRICT):

(a) General-Provisions:

(1) All permanent signs may be illuminated. Temporary signs shall not be illuminated; and

(2) Signs for business, industrial, or other non-residential uses which are lawfully located in a residential zoning district shall be subject to the standards of this subsection (12).

(b) Ground or Projecting Signs:

(1) Only one (1) ground or projecting sign per street frontage shall be permitted on a premises;

(2) The ground or projecting sign shall not exceed one (1) square foot of sign area per one (1) linear foot of lot frontage not to exceed thirty-two (32) square feet per side or sixty-four (64) square feet total sign area; and

(3) Ground signs shall be a maximum height of six (6) feet at the minimum sign setback line and for every additional five (5) feet of sign setback, two (2) feet may be added to the sign height not to exceed a total sign height of sixteen (16) feet. (4) See (e) "Directional Signs".

(c) Wall Signs:

(1) The number of wall signs shall be limited to one (1) per each wall of the building and the total combined area of all wall signs shall not exceed one (1) square foot of sign area per linear foot of building frontage; and

(2) In the case of a building with a pitched roof that overhangs a wall at the ground floor level in a manner that precludes the practical placement of a wall sign on any part of the wall of the building, that portion of the roof surface that overhangs the wall shall be considered part of the wall and a wall sign may be located on that overhanging roof surface provided that no part of the sign extends more than three (3) feet from the roof surface and that the sign height does not exceed two (2) feet. An application for a permit for a sign under this paragraph shall include a detailed drawing by a licensed architect or engineer showing how the sign will be placed and showing sufficient dimensional details to indicate that such placement will conform with the requirements of this paragraph.

(d) Temporary Signs:

(1) Temporary ground or wall signs shall be permitted.

(A) The sign area shall not exceed sixteen (16) square feet per side or thirty-two (32) square feet total sign area;

(B) The sign height shall not exceed six (6) feet;

(C) Only one temporary sign bearing a commercial message shall be allowed for each business address at one time;

(D) Temporary ground or wall signs with commercial messages are permitted for four (4) separate occurrences per business for a total of thirty (30) days per quarter of a calendar year; and

(e) Directional Signs:

In addition to any other permanent or temporary sign permitted elsewhere in this Ordinance, permanent or temporary sign(s) which convey information which pertains to wayfinding onto or within a premises shall be permitted provided that:

(1) The sign area shall not exceed two (2) square feet per side or four (4) square feet total sign area;

(2) Sign height shall not exceed three (3) feet if located within twenty-five (25) feet of a public right-of-way or six (6) feet in height in any other location;

(3) The sign shall be located outside any public right-of-way but shall not be subject to the general ground sign setback provision;

(3) No commercial message on such a sign shall be legible from the public right-of-way or from private property other than the premises on which the sign is located;

(4) Any commercial message, including the name or Logo of a business establishment, shall pertain to the premises on which it is located;

(5) For purposes of the previous two paragraphs, in the case of a shopping center or other multi-tenant property with a single site plan, the entire area under one site plan shall be considered a single premises, regardless of the fact that some occupants of the center may own their individual sites or spaces; and

(6) When located in the Old Village District, the sign shall comply with all the general design standards and general provisions applicable to signs located within the Old Village District.

18.20.B

PERMITTED SIGNS (OLD VILLAGE-DISTRICT)

(1) SCOPE-OF-REGULATIONS:

The intent of this section is to modify sign requirements and to delineate special standards for signs in the Old Village District as defined in Appendix H of the Comprehensive Plan of Bellbrook (adopted by Ordinance No. 74-32) to ensure that such signs are compatible with the

general architectural character of the Old Village. These regulations are in addition to regulations contained in Section 18.20.A, but where there is conflict with Section 18.20.A, the regulations contained herein shall take precedence. A Review Board named Old Village District Review Board shall be established by City Council to administer this section of the Zoning Regulations.

(2) NUMBER OF SIGNS PERMISSIBLE:

(a) Single Occupant-Buildings:

Single occupant buildings are permitted one (1) sign of each sign type (free-standing, wall/roof or projecting) no larger than the permissible size (see Section (4) below) for each frontage on a public street. One (1) additional sign no greater than one (1) square foot in area is permitted for each entrance, when flush mounted near the entrance for purposes of pedestrian information. No other exterior signs are permitted unless they are identified as a permitted exception in Section (7) "Exceptions."

(b) Multi-occupant Buildings:

Signs on buildings having more than one (1) occupant shall be controlled in the following manner:

(1) Each occupancy facing a public street or public access driveway with a door opening directly from the occupancy onto the public street or access shall be allowed one (1) sign of each sign type (free-standing, wall/roof or projecting) of the permitted size, for each street frontage.

(2) One sign of the permissible size (see Section (4) below) is permitted for each shared entrance. On this sign, all the building's occupants sharing the entrance may be listed.

(3) One (1) additional sign no greater than one (1) square foot in area is permitted for each building entrance, when flush mounted near the entrance for

purposes of pedestrian information. No other exterior signs are permitted unless they are identified as permitted except in Section (7) "Exceptions".

(3) LOCATION OF SIGNS:

(a) Projecting:

In no case should the sign or its supports extend above the highest point of the building supporting the sign. A sign may project from a building beyond the property line and over a public sidewalk providing:

(1) it does not intrude more than 3/4 of the sidewalk width; and

(2) it clears the sidewalk by ten (10) feet.

(b) Wall:

Wall signs may take any shape or any direction across the facade of a building provided it conforms to the general character of the building to which it is attached. No wall sign shall project above the cornice of the building to which it is attached.

(c) Free Standing:

No free-standing sign shall be mounted on the roof of a building, nor shall it reach a greater height than the lowest point of the cornice of the building or facility it represents. In no case shall any portion of a free-standing sign be located off the property of the facility it represents. All such signs shall be allowed the same area and be subject to the restrictions outlined for projecting signs.

(d) Roof signs:

Roof signs are permitted on structures in B-4 zoning districts in the Old Village District where a pitched roof overhangs a wall at the ground floor level in a manner which precludes the practical placement of a sign on any part of the wall of the building. The baseline of the roof sign:

(1) shall be no closer than twelve (12") inches from the gutter line of the roof and the sign, including structure, must be totally contained within the lower fifty percent (50%) of the roof; and

(2) shall not exceed four feet (4') in height and a maximum of four- and one-half feet (4 ½") from the roof surface as measured vertically from the face of the sign.

In no case shall the roof sign project above the peak of the roof upon which the sign is located.

(4) PHYSICAL CHARACTERISTICS OF SIGNS:

(a) Sign Size:

(1) Projecting:

No projecting sign shall be larger than thirty-six (36) square feet total exposed faces, except at the corner of two (2) public streets. Projecting signs attached to corners of buildings facing two (2) public streets may be of a size equivalent to the total size allowed for projecting signs on the two (2) sides forming the corner (a total 72 square feet), in which case, no other sign shall be permitted. If less than the allowable area is used, the remaining allowable area may be used to establish one (1) other projecting or flat sign on the respective intersecting building faces.

(2) Wall:

No sign attached flat against the face of a building or painted thereon, shall be larger than forty (40) square feet and shall not extend more than twelve (12) inches from the building face.

(3) Free Standing:

No free-standing sign shall be larger than thirty-six (36) square feet total exposed faces.

(4) Roof:

No roof sign shall be larger than twenty-four (24) square feet total exposed face.

(5) Color:

Sign colors shall be subdued and compatible with building colors.

(6) Materials:

Allowable materials are stone, wood, and metal. Facsimiles of stone, wood and metal produced from other materials are permissible if deemed acceptable by the Village Review Board.

(7) Lighting:

No sign shall be lighted internally nor shall there be rotating beams, beacons, or flashing illumination. All signs shall be lighted by separate light source set so as to not constitute a hazard to pedestrian or vehicular traffic. No back lighting shall be allowed.

(8) Animation:

No sign shall be permitted which incorporates physical movement or the illusion of physical movement.

(9) Design:

The design (shape, material, colors, lettering) of signs shall in total be compatible with late 19th century architecture characteristic of the Old Village.

(5) ERECTION AND DISPLAY OF SIGNS:

No exterior sign may be erected or displayed within the Old Village without the prior approval of the Community Development Department. Should the applicant wish to apply for an alternate amount, size, or material of signage permitted in Section 18.20 of the Zoning Code, the applicant shall seek approval from the Old Village District Review Board.

(6) MODIFICATION AND REPAIR OF SIGNS:

(a) Non-Conforming:

Existing signs which do not meet the requirements of this Ordinance shall be considered nonconforming and shall be subject to the following restriction:

No sign sustaining over fifty percent (50%) damage based on current replacement costs shall be repaired. No change in the size, shape, color, or content of a non-conforming sign shall be permitted except a change in ownership identification.

(b) Conforming:

No new sign shall be erected and no change in size, shape, color, or content of an existing conforming sign shall be permitted without prior approval of the Community Development Department. Should the applicant wish to apply for an alternate amount, size or material of signage permitted in Section 18.20 of the Zoning Code, the applicant shall seek approval from the Old Village District Review Board.

(7) EXCEPTIONS:

(a) General:

Certain unique types of identifying signs or emblems shall be allowed on approval of the Village Review Board. Examples are barber poles, physician's caduceus, community bulletin boards, etc., provided they are of a scale suitable for the business they identify and are compatible as to color, materials as otherwise noted herein.

(b) Temporary:

Temporary signs of various types and designs for businesses and public notice shall be allowed provided they are approved by the Community Development Department and are limited to a total of thirty (30) days display time per quarter. If the applicant wishes to apply for a temporary sign that does not meet the requirements of Section 18.20 of the Zoning Code, the applicant shall seek approval from the Village Review Board.

(c) Awnings Used as Signs:

Signs shall be permitted on awnings provided the awnings are constructed of frame and cloth. The area of the awning used as sign shall be no larger than eighteen (18) square feet.

(8) ADMINISTRATION, ENFORCEMENT AND APPEAL:

(a) Administration of this section of the Zoning Code shall be the responsibility of the Village Review Board. See Section 14.13 for the assembly of the Board. It shall also be the duty of the Village Review Board to inform the Community Development Administrator of all approved applications and provide the Community Development Administrator with a copy of the drawings and the description contained in the application. Application for display or modification shall contain the following minimum information:

(1) Name and address of the applicants;

(2) Address of the property at which the sign will be displayed;

(3) Listing of occupants of the buildings on the property where sign is to be displayed;

(4) A sketch and/or photograph showing the location of the sign on building or property; and

(5) A written description and sketch of the sign containing the wording, colors, material, and dimension of the sign.

(b) Enforcement:

Any person, firm or corporation erecting or modifying a sign not in accordance with an approved application will be subject to penalties as specified in Section 19.12 of the Zoning Ordinance.

(c) Appeal:

Appeal of the decisions of the Village Review Board or the Community Development Administrator shall be made to the Board of Zoning Appeals.

18.21

NON-CONFORMITIES:

Within the districts established by this Ordinance or amendments that may later be adopted, there exists lots, structures, and uses of land and 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 amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed but not to encourage their continuance. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved.

It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except by appeal to the Board of Zoning Appeals for approval of specific plans. Expansions of existing non-conforming uses, where allowed by the Board of Zoning Appeals, may be made only on property owned by the applicant as of the effective date of this Ordinance.

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

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

(1) NON-CONFORMING LOTS OF RECORD:

In any district in which single-family dwellings are permitted, notwithstanding other limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance subject to the following conditions:

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

(2) NON-CONFORMING USES OF LAND:

Where at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, except as provided.

(b) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

(c) If any such non-conforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for this district in which such land is located.

(d) Where a non-conforming use of the land by the nature of the use requires expansion or enlargement of the land are so

used in order to continue in operation such as removal of sand, earth, stone, minerals, etc., continuance of such operations following the adoption or amendment of this Ordinance shall be deemed a violation.

(3) NON-CONFORMING STRUCTURES:

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reasons of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful.

(4) NON-CONFORMING USES OF STRUCTURES:

If a lawful use of a structure or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Zoning Appeals in collaboration with the Planning Board may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.

(b) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the non-conforming use may not thereafter be resumed.

(c) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twenty-four (24) consecutive months or for twenty-seven (27) months during any three (3) year period, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(d) When non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the use being conducted at that location and any subsequent use of the lot shall be in conformance with the regulations of the district in which it is located.

(5) REPAIRS AND MAINTENANCE:

On any building devoted in whole or in part to any non-conforming use, work may be done on ordinary repairs or on repairs or replacement of non-bearing walls, fixtures, wiring or plumbing.

(6) RESTORING BUILDINGS:

When a building or structure, the use of which does not conform to the provisions of this Ordinance, has been damaged by explosion, fire, act of God, or the public enemy, to the extent of twice its assessed value for tax purposes, it shall not be restored or reconstructed or in any way used except in conformity with the district regulations in which the building is situated. When a non-conforming use qualifies for such reconstruction, a building permit shall be secured for that purpose within one (1) year from the date of occurrence for that damage and such reconstruction shall be diligently prosecuted and completed without delay. Failure to comply as set forth above shall cause such non-conforming uses to lapse and the premises shall conform thereafter to the established district regulations therein.

(7) VIOLATIONS NOT RENDERED NON-CONFORMING:

A use, structure or lot which was in violation of the provisions of this Ordinance which this Ordinance amends shall not be validated or become non-conforming upon the adoption of this Ordinance.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charge with protecting the public safety, upon order of such official.

No section of a commercial tractor, commercial trailer, semi-trailer nor any commercial truck shall be parked in any residential district except for loading or unloading residential goods or furniture; in cases of such loading or unloading, such parking shall not exceed a total of twenty-four (24) hours within any thirty (30) day period beginning with the first instance of commercial semi-trailer or truck parking.

18.23

DRIVE-IN SERVICE ESTABLISHMENTS

Establishments that by their nature create periodic lining up of customers in automobiles waiting to be serviced shall provide off-street waiting areas for these customers. This includes such activities as:

(1) Drive-in banks;

(2) Auto wash;

(3) Drive-in retail outlets;

(4) Drive-in service and repair drop stations for such items as clothing, appliance equipment, etc.

Those establishments that can normally serve their customers in three (3) minutes or less shall provide at least five (5) off-street waiting spaces per window. Auto wash shall provide at least ten (10) off-street waiting spaces. Where normal customer servicing time is greater than three (3) minutes per car, additional spaces shall be provided on the basis of one (1) additional space per additional minute of service time.

18.24

BARRIERS TO ENCROACHMENT

Hereafter any lot used for parking, storage or display of vehicles for sale or rent including boats, trailers, mobile homes and trucks where such use is permitted to come within three (3) feet of any property line separating said lot from any property held by any other ownership including public land, such property lines shall be protected from encroachment by the installation of wheel stops, bumper guards or fencing so placed and erected as to prevent vehicles from projecting over said lines except at approved points of ingress and egress.

18.25

RESERVED

18.26

RECREATIONAL VEHICLES

(1) One recreational vehicle (RV) up to 25 in length is permitted to be parked at any location on a residential lot provided that the vehicle conforms to the following:

(a) RVs parked in front of the principal building line shall be located on a hard surface pad or driveway such as poured concrete, asphalt or brick pavers in a manner so as not to obstruct the view of traffic;

(b) Parked or stored RVs shall not be connected to any utilities other than for maintenance purposes;

(c) No RV shall be used for living, sleeping or commercial purposes while parked in a residential district or in any area not approved for such use;

(d) RVs must be in operable condition and must display a current license and registration, if applicable. There are no restrictions on recreational vehicle storage or parking when the vehicle is stored or parked inside an enclosed permanent structure on a residential lot.

(2) One RV 25 feet in length or greater but not more than 40 feet in length or a second RV up to 25 feet in length is permitted to be parked on a residential lot provided that it conforms to the following:

(a) RVs must be positioned behind the principal building setback line in a side yard or rear yard;

(b) Parked or stored RVs shall not be connected to any utilities other than for maintenance purposes;

(c) No RV shall be used for living, sleeping or commercial purposes while parked in a residential district, or in any area not approved for such use;

(d) RVs are permitted to be parked in a driveway for loading and/or unloading purposes only not to exceed forty-eight (48) hours per occurrence.

(e) RVs must be in operable condition and must display a current license and registration, if applicable. There are no restrictions on recreational vehicle storage or parking when the vehicle will be stored or parked inside an enclosed permanent structure on a residential lot; and

(f) RVs must be parked on a hard surface, driveway, or compacted gravel.

(3) RVs in excess of 40 feet in length are not permitted to be parked in any residential district. No more than two (2) RVs are permitted to be located on the exterior of any residential lot.

Exception: The parking of a visiting RV is permitted in a residential zoning district provided that the RV is parked on a hard surface pad or driveway such as poured concrete, asphalt, or brick pavers and the vehicle does not restrict the view of traffic. A property owner may only claim this exception one (1) time per calendar year for a period not to exceed thirty (30) days per calendar year.

18.30

ADULT ENTERTAINMENT FACILITIES

(1) No adult entertainment facility shall be established within a radius of 500 feet of any single-family residential zoning district or of any building used for single family residence purposes, whether in this City or in any other political subdivision.

(2) No adult entertainment facility shall be established within a radius of 500 feet of any school, library or teaching facility, whether public or private, governmental, or commercial, which school, library or teaching facility is attended by persons under 18 years of age, whether in this City or in any other political subdivision.

(3) No adult entertainment facility shall be established within a radius of 500 feet of any park or recreational facility attended by persons under 18 years of age, whether in this City or in any other political subdivision.

(4) No adult entertainment facility shall be established within a radius of 500 feet of any church, synagogue, or permanently established place of religious service, which is attended by persons under 18 years of age, or day care center or type A or B family day care home as defined by Ohio law, whether in this City or in any other political subdivision.

(5) No adult entertainment facility shall be established within a radius of 500 feet of any other adult entertainment facility or within a radius of 500 feet of any two (2) of the following establishments (or of any one (1) establishment which combines to any degree any two (2) of the following activities), whether in this City or in any other political subdivision:

(a) Cabarets, clubs, or other establishments which feature topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

(b) Establishments for the sale of beer or intoxicating liquor for consumption on the premises.

(c) Pool or billiard halls.

(d) Pinball palaces or halls.

(e) Video arcades or establishments known by other descriptions, but which provide video game and/or other games or entertainment attended or participated in by persons under 18 years of age.

(f) Dance halls or discotheques.

(6) For the purposes of this section, distances shall be measured from the property lines of any lot or parcel of land which includes, or which is operated or used in connection with, a building in which an adult entertainment facility is located or in which any activity described or referred to in this section is located.

18.31

LIGHT AND GLARE

(1) Purpose and Intent

These provisions are intended to control the use of artificial illuminating emitting rays into the night sky and to provide a level of illumination necessary for adequate, safe, and efficient movement of vehicles and persons. It is the intention of this section to accomplish the following:

- a. Encourage lighting systems that are designed to conserve energy;
- b. Minimize glare;
- c. Protect the use and enjoyment of surrounding property; and
- d. Increase nighttime safety, security, and productivity.

(2) Conformance and Applicable Codes

All outdoor, artificial illuminating devices shall be installed and maintained in conformance with the provisions of this section and the Ohio Building Code.

(3) Nonconforming Lighting – New Uses, Buildings & Major Additions, or Modifications

This section shall apply to all lots of proposed new land uses, developments, buildings, and structures that require a permit.

All building additions or modifications of 25 percent or more in terms of additional dwelling units, gross floor area, or parking spaces, either with a single approval or with cumulative approvals shall invoke the requirements of this sections for the entire property, including previously installed and any new exterior lighting.

Similarly, cumulative modification or replacement of the exterior lighting constituting 25 percent or more of the total exterior light output found on the site, measured in initial lamp lumens, shall invoke the requirements of this section for the entire property, including previously installed and any new exterior lighting.

(4) Nonconforming Lighting – Minor Additions

Additions or modifications of less than 25 percent, as described in 18.31 (3), and that require any type of permit, shall require the submission of a complete inventory and site plan detailing all existing and any proposed new exterior lighting. Any new lighting on the site shall meet the requirements of this Code with regard to shielding and lamp type.

(5) Nonconforming Lighting – Resumption of Use after Abandonment

If a property or use with nonconforming lighting is abandoned for 6 months or more, then all exterior lighting shall be reviewed and brought into compliance with this Code prior to the property's reuse.

(6) Exceptions

The following shall be exempt from the standards of this section:

- a. Public street luminaries;
- b. Emergency lighting: All temporary emergency lighting needed by the police, fire departments, or other emergency services, as well as all vehicular luminaries;
- c. Lighting used for construction crews making improvements of the public right-of-way.

(7) Shielding Standards

All exterior luminaries shall not be aimed, directed, or focused to cause direct light from the luminaire toward residential property or to persons operating motor vehicles on public ways; the luminaire shall be redirected, or its light output controlled as necessary to eliminate such conditions.

In addition, all exterior luminaires having an initial output greater than 2,000 lumens and that are mounted on a pole, building, structure, or tree, shall be full cutoff type luminaires. Such pole, building, structure, or tree mounted luminaires shall not be equipped with adjustable mounting devices permitting alteration of the luminaire's aim in the field.

(8) Light Trespass

All luminaires shall be located, aimed, or shielded to prevent light from trespassing across property boundaries. Light originating on a site shall not exceed the following foot-candles at any property line of said site for the following adjacent uses:

- | | |
|------------------------------|------------------|
| a. Single Family Residential | 0.1 foot-candles |
| b. Multi-Family Residential | 0.3 foot-candles |
| c. Civic | 0.5 foot-candles |
| d. Office | 0.5 foot-candles |
| e. Commercial | 1.0 foot-candles |
| f. Industrial | 1.0 foot-candles |
| g. Street Rights-of-Way | 1.0 foot-candles |

18.40

PERSONAL WIRELESS SERVICE SITES

(1) Personal Wireless Service Sites shall be screened by a solid wood fence, at least six (6) feet high. This fence shall be surrounded by an evergreen hedge, which shall be continuous, except for an entryway. Any equipment other than a Personal Wireless Service Tower or Personal Wireless Service Antenna, which projects above the fence shall be screened from view by a parapet, wall, or screen.

(2) Personal Wireless Service Sites shall be dismantled, and all Personal Wireless Service Facilities maintained therein shall be removed within six (6) months after cessation of operations therein.

(3) The Community Development Administrator shall not issue a Zoning Permit for a Personal Wireless Service Site until after the applicant has provided written

certification that all required state and federal permits have been obtained and has supplied copies of all such state and federal permits.

(4) If lighting is required by state or federal authorities, it shall be approved only at the minimum number and intensity and shall be shielded from ground view. If not required by those authorities, no lights, beacons, or strobes shall be mounted on any Personal Wireless Service Antenna or Personal Wireless Service Tower.

(5) Personal Wireless Service Sites shall be situated on land parcels having a minimum area of at least twenty-five (25) acres, and the base of any Personal Wireless Service Tower situated thereon shall be set back at the furthest point from property designated for residential use in the City. The setback from the nearest point on the parcel shall be at least two hundred (200) feet or a distance equal to the maximum height of the highest antenna supported thereby, whichever is greater.

(6) No part of any Personal Wireless Service Facility may have a maximum elevation greater than two hundred (200) feet above ground level.

(7) Personal Wireless Service Towers shall be constructed in such a manner as to be suitable for supporting at least two (2) differently dedicated Personal Wireless Service Antennas.

ARTICLE 19

ENFORCEMENT AND PENALTIES

19.01

ZONING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure or land be established or changed in use without a permit issued by the Community Development Administrator. Zoning permits shall be issued only in conformity with the provisions of this Ordinance unless the Community Development Administrator received a written order from the Board of Zoning Appeals or from the City Council, as provided by this Ordinance.

19.02

CONTENTS OF APPLICATION FOR ZONING PERMIT/ZONING COMPLIANCE CERTIFICATE

The application for zoning permit/zoning compliance certificate shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and shall be revoked if work has not begun within one (1) year or substantially completed within two and one-half (2 ½) years from the date of the issuance of the zoning permit/zoning compliance certificate. For conditional uses, the effective date of the conditional use and zoning permit/zoning compliance certificate shall be that of the conditional use permit. At a minimum, the application shall contain the following information:

- (1) Name, address, and phone number of applicant;
- (2) Legal description of property;
- (3) Existing use;
- (4) Proposed use; if, business, specify use per Zoning Code and describe business;
- (5) Zoning district;
- (6) Plans drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alterations;
- (7) Building heights;

(8) Application for accessory parking lot (as applicable);

(9) Number of dwelling units;

(10) When development is proposed for a single lot which is therefore not subject to standard subdivision rules and regulations, the Community Development Administrator shall require the applicant to submit plans meeting those requirements which are listed in the City of Bellbrook Subdivision Regulations under Section IV(B)(2) (a), Final Construction Plans and Estimate, and any additional subdivision regulations which are deemed necessary to allow the proper review and approval of the application for zoning permit/zoning compliance certificate.

(11) Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance, i.e., copy of conditional uses required in conditional use permit.

19.03

SUBMISSION FOR A THOROUGHFARE PLAN REVIEW

Before any zoning permit is issued affecting land within three hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the Bellbrook and Environs Major Thoroughfare Plan Map of the Comprehensive Plan or any land within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Community Development Administrator shall give notice to the applicant that a zoning permit will not be issued until after a recommendation is made in a period of thirty (30) days from the date notice is received by the Bellbrook Planning Board. After having checked the Comprehensive Plan, the Bellbrook Planning Board may coordinate with the Miami Valley Regional Planning Commission, Transportation Coordinating Committee and Regional Planning and Coordinating Committee of Greene County so as to ascertain whether or not highway construction or changes are planned. If the Bellbrook Planning Board is notified by any of the above agencies of pending plans for said highway, they shall recommend against the issuance of a zoning permit and shall attempt to resolve any conflict within thirty (30) days. If no plans exist for said highway, or on the expiration of the thirty (30) days, the Community Development Administrator shall issue the zoning permit/zoning compliance certificate if the application is conformance with all provisions of this Ordinance.

19.04

APPROVAL OF ZONING PERMIT/ZONING COMPLIANCE CERTIFICATE

Within thirty (30) days after the receipt of an application and required fee, the Community Development Administrator shall either approve or disapprove the application in conformance with the provisions of this Ordinance. Zoning permits which require approval by the Village Review Board and/or the Board of Zoning Appeals shall be issued by the Community Development Administrator and the appropriate fee(s) paid by the applicant within thirty (30) days of the date of Board approval. Failure to do so will result in the doubling of any permit fees for each thirty (30) day period beyond the initial thirty (30) days following Board approval up to one hundred and eighty (180) days after which the permit may be revoked and a new approval required by the appropriate Board. Reapplication for Village Review Board approval shall be in conformance with Section 14.15; reapplication for variances shall be in conformance with Section 20.17. All zoning permits shall, however, be conditional upon the commencement of work within one (1) year from date of issuance. The copy of the plans may be placed in the official file. The Community Development Administrator may issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Ordinance.

19.05

EXPIRATION OF ZONING PERMIT/ZONING COMPLIANCE CERTIFICATE:

If the work described in any zoning permit/zoning compliance certificate has not begun within one (1) year from the date of issuance and has not been substantially completed within two and one-half (2½) years of the date of issuance said permit shall expire and written notice thereof shall be given by the Community Development Administrator to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning permit/zoning compliance certificate has been obtained or extension granted. One (1) extension shall be granted by the Community Development Administrator for a period of six (6) months. The extension will be noted on the zoning permit/zoning compliance certificate and application by the Community Development Administrator.

19.06

CERTIFICATE OF HEALTH OFFICER:

In every instance where the zoning permit application/zoning compliance certificate and the attached plan reflect work associated with the water supply and/or disposal of sanitary waste and where a lot is not served with public water and/or the disposal of sanitary wastes by means of public sewers, the application for zoning permit/zoning compliance certificate shall be accompanied by a Certificate of Approval by the County Health Officer of the proposed method of water supply and/or disposal of sanitary wastes.

19.07

APPLICATION FOR ZONING PERMIT/ZONING COMPLIANCE CERTIFICATE

The Community Development Administrator shall sign the application for zoning permit/zoning compliance certificate when he/she is satisfied that the construction or alteration to be done is the same as described and proposed on the zoning permit/zoning compliance certificate. This provision shall apply to new construction, additions, decks, and similar uses, except the raising of crops and other agricultural uses.

19.08

FAILURE TO OBTAIN A ZONING PERMIT/ ZONING COMPLIANCE CERTIFICATE

Failure to obtain a zoning permit/zoning compliance certificate shall be a violation of this Ordinance and punishable under Section 19.12 of this Ordinance.

19.09

RECORD OF ZONING PERMITS / CERTIFICATES OF ZONING COMPLIANCE

The Community Development Administrator shall maintain a record of all zoning permits/zoning compliance certificates and they shall be made available for inspection upon request to any person.

19.10

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 stating fully the causes and basis thereof shall be filed with the Community Development Administrator. The Community Development Administrator shall record such complaint, promptly investigate, and take action as provided by this Ordinance.

19.11

OTHER ACTION

Nothing herein contained shall prevent the City from taking other lawful action as is necessary to prevent or remedy any violation.

19.12

PENALTIES

(1) Violation of any provision of this Ordinance or any amendment or supplement thereto, or failure to comply with any of the requirements of this Code may be enforced either through the filing of a misdemeanor complaint or assessment of a civil penalty, or both.

(a) Minor misdemeanor. Except as otherwise provided herein, any person, firm, or corporation violating any of the provisions

of this Code, or any amendment or supplement thereto, shall upon conviction of a minor misdemeanor, be fined not more than one hundred dollars (\$100).

(b) Civil penalties. A person who violates any provision set forth in a provision of the Zoning Code has committed a civil offense and is subject to civil penalties. Prior to assessment of a civil penalty, the Community Development Administrator shall issue written notice of the civil violation to the offending person. The notice shall include:

(1) The street address of the property subject to the notice of violation;

(2) A description of the violation and the section(s) of this Ordinance violated;

(3) Corrective action that will eliminate or correct the violations;

(4) The reasonable time frame required to correct the violation;

(5) Provide information to the property owner of the right to a hearing before the Board of Zoning Appeals if a request for a hearing is made within twenty (20) days of ~~receipt~~ service of the notice;

~~(6) When applicable, include a statement of the right to file a lien.~~

(2) The written notice of the violation shall be served by one of the following methods:

(a) delivered personally;

(b) Delivered by a commercial carrier service utilizing any form of delivery that requires a signature;

(c) sent by certified mail, return receipt requested, to the last known address; or

(d) if the notice sent via certified mail is returned showing that the letter was “refused,” or “unclaimed,” service by regular mail;

(d) if the notice is returned showing that the letter was not delivered for reasons other than “refused,” or “unclaimed,” a copy of the notice shall

be posted in a conspicuous place on or about the structure affected by such notice.

(3) A person served with a notice of civil violation may request a hearing before the Board of Zoning Appeals to contest the commission of a violation, to offer an explanation of the circumstances, or to offer proof of correction. The request shall be made in writing and received by the City within 20 days of service of the notice of violation. The hearing shall be conducted in accordance with the provisions of Article 20 of the Zoning Code. The Community Development Administrator or other City employee who issued the notice of violation, shall be present at the hearing.

If the person served fails to remedy the zoning violation within a reasonable time, if the person admits the offense by written response, or if the person fails to attend a requested hearing, the Community Development Administrator may pursue enforcement as set forth in this section, or as otherwise authorized by this Zoning Code. If the person denies the offense by written response, the person must also request a hearing before the Board of Zoning Appeals.

In accordance with Section 19.15 of the Zoning Code, when a notice of civil violation has been issued pursuant to this section, the following civil fines are hereby assessed upon the violator.

(a) Any violation of the Zoning Code that is a first offense shall be twenty-five dollars (\$25) per day, per offense, or two hundred fifty dollars (\$250) per offense total.

(b) Any violation of the Zoning Code that is a second offense shall be fifty dollars (\$50) per day, per offense, or five hundred dollars (\$500) per offense total.

(c) Any violation of the Zoning Code that is a third offense shall be seventy-five dollars (\$75) per day, per offense, or seven hundred fifty dollars (\$750) per offense total.

(4) Those who erect signs contrary to the provision of this Zoning Code shall be fined upon conviction or assessed by civil penalty not more than ten dollars (\$10) per offense, up to a maximum of four (4) offenses in any twelve (12) month period. Illegal signs are subject to confiscation by the City and will not be returned to the owners until all penalties are satisfied; unclaimed signs shall be held for thirty (30) days and then disposed of as surplus property. Convictions or civil penalties for sign violations in excess of four (4) offenses in a twelve-month period shall be fined, upon conviction, or assessed a civil penalty amount not to exceed twenty-five dollars (\$25) per offense.

19.13

AFFECTED PARTIES

The owner or tenant of any building, structure, premises, or part thereof and architect, engineer, surveyor, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation shall be found guilty of a separate offense and suffer the penalties herein provided.

19.14

VIOLATION, NUISANCE PER SE: ABATEMENT

Buildings erected, altered, razed, or converted, or uses carried on in violation of any provision of this Ordinance is hereby declared to be a nuisance per se.

19.15

SCHEDULE OF FEES, CHARGES, AND EXPENSES

The City Council shall establish, by resolution on an annual or semi-annual basis, a schedule of fees, charges, and expenses and a collection procedure for zoning permits/zoning compliance certificates, amendments, appeals, variances, conditional use permits, plan approvals and other matters pertaining to the administration and enforcement of this Ordinance. This fee scheduled may include, but is not limited to, fees and expenses incurred for investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Community Development Administrator and on the City's website and shall be altered or amended only by approval of the City Council.

19.16

WAIVER

Any person charged with a violation of any provision of this chapter for which payment of a prescribed fine may be made, may pay such sum in the manner prescribed on the issued sign ticket. Such payment shall be deemed a plea of guilty, waiver of court appearance and acknowledgement of conviction of the alleged offense and may be accepted in full satisfaction of the prescribed penalty for such alleged violation.

ARTICLE 20

ADMINISTRATION

20.01

OFFICE OF COMMUNITY DEVELOPMENT ADMINISTRATOR CREATED

A Community Development Administrator designated by the City Council shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the Council may authorize.

20.02

DUTIES OF COMMUNITY DEVELOPMENT ADMINISTRATOR

For the purpose of this Ordinance, the Community Development Administrator shall have the following duties:

- (1) Upon finding that any of the provisions of this Ordinance are being violated shall notify in writing by certified mail the person responsible for such violation(s) ordering the action necessary to correct such violation;
- (2) Order discontinuance of illegal uses of land, buildings, or structures;
- (3) Order removal of illegal buildings or structures or illegal additions or structural alterations;
- (4) Order discontinuance of any illegal work being done;
- (5) Issue receipts and maintain a record thereof for all fees collected;
- (6) Take any other action authorized by this Ordinance to ensure compliance with or to prevent violation(s) of this Ordinance. This may include the issuance of and action on zoning permits and certificates of zoning compliance and such similar administrative duties as are permissible under the law, to include the maintenance of records as required by Section 19.09.

20.03

PLANNING BOARD CREATED

A Planning Board shall be created in accordance with Sections 8.01, 8.02 and 8.03 of the Bellbrook Charter. The Planning Board shall have the powers of zoning and all the power and authority conferred upon city planning boards by the Ohio Revised Code and such other duties as may be imposed upon it by the Municipal Administrative Code and by the Bellbrook Charter.

20.04

DUTIES OF PLANNING BOARD

For the purpose of this Ordinance the Planning Board shall have the following duties:

- (1) Initiate proposed amendments to this Ordinance;
- (2) Review all proposed amendments to this Ordinance and make recommendations to the City Council as specified in Article 21;
- (3) Review all planned unit developments and make recommendations to the City Council provided in Article 17;
- (4) Review all requests for determination of similar uses; and
- (5) Perform other duties specified in the Zoning Ordinance.

20.05

PROCEEDINGS OF PLANNING BOARD

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

20.06

BOARD OF ZONING APPEALS CREATED

A Board of Zoning Appeals shall be created in accordance with Sections 8.05 and 8.06 of Bellbrook Charter. The Board of Zoning Appeals shall elect its own officers annually. Three (3) members of the Board of Zoning Appeals shall constitute a quorum for the conducting of business. It shall require a majority of votes of the sitting Board to pass a motion or take official action.

20.07

DUTIES OF THE BOARD OF ZONING APPEALS

In exercising its duties the Board may, as long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or modify the

order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Community Development Administrator from whom the appeal is taken. The majority of votes of the sitting Board shall be necessary to reverse any order, requirements, decision or determination of the Community Development Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation in the application of this Ordinance. For the purpose of this Ordinance the Board has the following specific responsibilities:

- (1) Administrative review;
- (2) Determination of district boundary location;
- (3) Granting conditional use permits; and
- (4) Authorizing variances.

20.08

PROCEEDINGS OF THE BOARD OF ZONING APPEALS

The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The Chairman, or in his absence the acting chairman, may compel the attendance of witnesses. Oral testimony given as evidence must be given under oath. Oaths will be administered by the Board Chair or designee. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each appeal considered by the Board, and the section of this Ordinance where applicable which the Board has considered in approving or disapproving any petition or other matter brought before the Board and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board. The official copy of the minutes of all proceedings will be signed by the Board Chairman and Secretary.

20.09

HEARING OF BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall fix a reasonable time not to exceed 30 days from receipt of application, petition, or appeal, for the hearing. Application, petition, or appeal shall be filed with the Community Development Administrator at least five days prior to the next regularly scheduled meeting. The Board shall give at least ten (10) days' notice of the time and place of such hearing, to the Community Development Administrator, and to the owners of record of property within three hundred (300) feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the address given on the last assessment roll. Any party may appear at such a hearing in

person, by agent, or by attorney. Before holding the public hearing, notice of such hearing shall be posted in full in not less than five (5) of the most public places in the City as determined by Council at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed hearing.

20.10

ACTION BY THE BOARD OF ZONING APPEALS

Within thirty (30) days after a public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request or application before the Board. If an application for conditional use is approved or approved with modifications, the Board shall direct the Community Development Administrator to issue the conditional use permit listing the specific conditions specified by the Board for approval. Appeals from Board decisions shall be made in the manner specified in Section 20.11.

20.11

DUTIES OF COMMUNITY DEVELOPMENT ADMINISTRATOR, BOARD OF ZONING APPEALS, LEGISLATIVE AUTHORITY AND COURTS ON MATTERS OF APPEAL

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Community Development Administrator, and that such questions shall be presented to the Board only on appeal from the decision of the Community Development Administrator, and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Ordinance. Under this Ordinance the City Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Ordinance as provided by law, and of establishing a schedule of fees and charges as stated in Ordinance No. 75-1. Nothing in this Ordinance shall be interpreted to prevent any official of the City from appealing a decision of the Board to the courts as provided in Chapters 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within thirty (30) days of the Board's written decision.

20.12

PROCEDURES AND REQUIREMENTS FOR ADMINISTRATIVE REVIEW

Administrative reviews shall conform to the procedures and requirements of Sections 20.06 through 20.12 of this Ordinance. As specified in Section 20.07, the Board of Zoning Appeals has appellate jurisdiction relative to administrative reviews.

20.12.1

ADMINISTRATIVE REVIEW

Appeals will be heard and decided only in such cases where it is alleged there is an error in any order, requirement, decision, or determination made by the Community Development Administrator or designee in the enforcement of this Ordinance. Appeals may be taken by any person aggrieved or by any officer of the City affected by any decision of the Community Development Administrator or designee. Such appeal shall be taken within twenty (20) days after the decision. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Community Development Administrator or designee, or to decide in favor of the applicant on any matter upon which they are required to pass under the terms of this Ordinance.

20.12.2

STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from, unless the Community Development Administrator from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

20.13

PROCEDURES AND REQUIREMENTS FOR VARIANCES

To vary the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow, or deep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty, not economic in nature, that would deprive the owner of reasonable use of the land or building involved but in no other case. The fact that another use would be more profitable is not a valid basis for legally granting a variance. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance. The variance requested shall not alter the essential character of the locality, nor be in conflict with the Comprehensive Master Plan. In making this determination, the Board of Zoning Appeals shall be advised by the recommendation of the Planning Board. In cases involving properties situated within the Old_Village District, as defined by Article 14, Section 14.02 of the Bellbrook Zoning Code, the Old Village District Review Board shall, when possible, make a recommendation to the Board of Zoning Appeals regarding the disposition of the variance request.

20.13.1

PROCEDURE FOR CONSIDERATION OF PETITIONS FOR VARIANCE:

The procedure for the consideration of petitions for variances shall be:

(1) The Board of Zoning Appeals shall make a finding that the reasons set forth in the application are valid and justify the granting of the variance. The Board shall also determine if the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

(2) Under no circumstances shall the Board of Zoning Appeals grant a variance which will permit a use which is not permitted in the district involved.

(3) Conditions: The Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance and the recommendation of the Planning Board. The Board of Zoning Appeals shall require a bond or irrevocable letter of credit to assure conformance to such conditions and safeguards as the Board may require.

(4) Violation of such conditions and safeguards when such are made a part of the terms under which a Variance is granted, shall cause the bond mentioned in (c) above to be forfeited and shall be deemed in violation of this Ordinance and punishable under Section 19.12 of this Ordinance.

(5) Public Hearings: Prior to taking action on a request for a variance the Board of Zoning Appeals shall hold a public hearing and give notice to property owners as in Section 20.09 of this Ordinance.

20.13.2

APPLICATION AND STANDARDS FOR VARIANCES:

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

(1) Name, address, and phone number of applicants;

(2) Legal description of property; and a site plan based on an accurate survey showing existing and/or future building locations and the locations of buildings on adjacent properties. This site plan should be prepared by a registered surveyor attesting to the accuracy of same;

(3) Description of nature of variance requested;

(4) Variances from the terms of the Zoning Ordinance shall be granted only where the property owner shows that the application of a zoning requirement to the property is inequitable causing the property owner practical difficulties in the use of the property. Factors to consider include, but are not limited to:

(a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(b) Whether the variance is substantial;

(c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

(d) Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer, or garbage removal;

(e) Whether the property owner purchased the property with knowledge of the zoning restriction;

(f) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and

(g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The Board shall determine, after and weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

20.13.3

SUPPLEMENTARY CONDITIONS AND SAFEGUARDS:

In granting any appeal or variance, the Board of Zoning Appeals 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 19.12 of this Ordinance.

20.14

PROCEDURE AND REQUIREMENTS FOR APPROVAL OF CONDITIONAL USE PERMITS:

It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation, and public facilities that each specific use must be considered individually. These specific uses that are conditionally permitted under the provisions of this Ordinance shall follow the procedures and requirements set forth in this section.

20.14.1

GENERAL:

The following requirements shall be complied with prior to any approval or denial of a conditional use permit by the Board of Zoning Appeals:

(1) A written application for a conditional use is submitted indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested per Section 20.14.2.

(2) A public hearing shall be held as specified in Section 20.09 of this Ordinance.

(3) The Board of Zoning Appeals shall determine:

(a) That it has the authority to grant the request.

(b) That the granting of the conditional use will not adversely affect the neighborhood in which the conditional use is to be located.

(c) That the conditional use is not one which is contrary to the policies of the Comprehensive Master Plan of the City of Bellbrook. In making this determination The Board shall be advised by the recommendation of the Planning Board.

20.14.2

CONTENTS OF APPLICATION FOR CONDITIONAL USE PERMIT:

An application for conditional use permit shall be filed with the Chairman of the Board of Zoning Appeals by at least one owner or lessee of the property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

- (1) Name, address, and phone number of applicant;
- (2) Legal description of property;
- (3) Description of existing use;
- (4) Zoning district;
- (5) Description of proposed conditional use;
- (6) A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Board may require determining if the proposed conditional use meets the intent and requirements of this Ordinance;
- (7) A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the comprehensive plan;
- (8) Such other information as may be required in Section 20.14.

20.14.3

GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES:

In addition to the specific requirements for conditionally permitted uses as specified in Section 20.14.1, the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- (1) Is in fact a conditional use as established under the provisions of the Zoning Ordinance for the zoning district involved;

(2) Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Comprehensive Plan and/or the Zoning Ordinance;

(3) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

(4) Will not be hazardous or disturbing to existing or future neighboring uses;

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

(7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

(8) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

(9) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

20.14.4

SUPPLEMENTAL SAFEGUARDS AND CONDITIONS:

In granting any conditional use permit, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity to the provisions of this Ordinance and the recommendation of the Planning Board. The Board of Zoning Appeals shall require a bond to assure conformance to such conditions and safeguards as may be necessary. Violation of such conditions and safeguards shall cause the performance bond mentioned above to be forfeited and shall be deemed a violation of this Ordinance and punishable under Section 19.12.

20.14.5

EXPIRATION OF CONDITIONAL USE PERMIT:

A conditional use permit shall expire in one (1) year after it is issued unless actual construction has taken place or is underway except as provided elsewhere in this Ordinance.

20.15

DETERMINATION OF SIMILAR USES

The Planning Board will determine if uses not specifically mentioned in this Ordinance are similar to uses permitted within a district.

20.16

DETERMINATION OF DISTRICT BOUNDARY LOCATION

The City Council shall determine the exact location of any district boundary if there is uncertainty as to the exact location thereof. In making such a determination the Board shall be guided by the provisions of Section 4.03.

20.17

AMENDMENT LIMITATION:

Petitions for zoning amendment, conditional use permits or variances concerning any parcel of property, portion thereof, or use thereon shall not be accepted for consideration more than once during any consecutive twelve (12) month period.

ARTICLE 21

AMENDMENT

The Council may amend, supplement, change or repeal this Ordinance in the manner prescribed by Section 5.03 and 5.04 of the Bellbrook Charter after receiving the recommendation from the Planning Board.

21.01

RIGHT OF PETITION - REFERRAL TO PLANNING BOARD

A proposed amendment, supplement, change or repeal may be originated by the Council, the Planning Board, or the owner of the affected property. All such proposals except those originating with the Planning Board shall be referred to that Board for a recommendation thereon. Proposals originating by the Council shall be referred to the Planning Board by resolution stating the date, not less than sixty days from the next regularly scheduled meeting of the Planning Board, as to when the Planning Board recommendation is required. Upon its request, the Planning Board shall be granted a thirty-day extension by which its recommendation shall be due. At its discretion, Council may, upon satisfactory petition by the Planning Board, grant a further extension. The Council shall take no final action on any amendment, supplement, change or repeal until it has received and studied the recommendation of the Planning Board; provided, however, if the Planning Board shall fail to forward its recommendation on any Council initiated proposal within the time specified by the resolution proposing the same, then Council may act thereon as though it had received a negative recommendation from the Planning Board.

The Planning Board shall study the proposed amendment, supplement, change or repeal. If the Board decides the proposal has merit it shall hold a public hearing thereon. At least ten (10) days' notice of the time and place of such hearing shall be mailed to the petitioner, and all property owners within three (300) hundred feet of the property included in petitions for rezoning. Public notices of hearings on proposed amendments to Articles of the Zoning Regulations shall be posted in five (5) public places as determined by Council. The Planning Board shall make a report of its findings and a recommendation to the Council.

21.02

CONTENTS OF APPLICATION:

Applications for amendments to the Official Zoning Map adopted as part of this Ordinance by Section 4.02 shall contain at least the following information:

- (1) Name, address, and phone number of applicant;
- (2) Proposed amending ordinance, approved as to form by the City Legal Advisor;
- (3) Present use;

(4) Present zoning district;

(5) Proposed use;

(6) Proposed zoning district;

(7) A vicinity map at a scale approved by the Community Development Administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the Community Development Administrator may require;

(8) A list of all property owners, and their mailing addresses, who are within three hundred (300) feet of the property proposed to be rezoned and others that may have a substantial interest in the case, except that addresses need not be included where more than ten (10) parcels are to be rezoned;

(9) A statement on how the proposed amendment relates to the Comprehensive Plan; (See Comprehensive Plan Map in Community Development Administrator's office).

(10) A fee as established by Council (See Section 19.15)

21.03

REVIEWS BY OFFICIALS AND AGENCIES:

Prior to acceptance, the Board may request and review recommendations for each proposed amendment from the Miami Valley Regional Planning Commission, the Transportation Coordinating Committee, the Regional Planning and Coordinating Commission of Greene County, City Law Director, and other City officials, agencies, and adjacent local governments to ascertain the nature of highway plans, drainage and flooding problems, utility plans and other factors relevant to the proposal.

21.04

COUNCIL ACTION ON RECOMMENDATION:

When the Council receives an adverse recommendation on a proposed amendment, supplement, change or repeal it may concur with the Planning Board and, by a motion of Council stop further action, or if the Council does not agree with the recommendation of the Planning Board, it shall hold a public hearing prior to taking final action on the Ordinance.

When the Council receives an affirmative recommendation from the Planning Board on a proposed amendment the Council shall hold a public hearing thereon. When such hearing is held, notice shall be given as prescribed by the Bellbrook Charter, for an ordinance. In addition to such notice the Community Development Administrator or designee shall, upon notification by the Clerk, place upon the involved premises in a prominent position a printed sign bearing the words "rezoning pending from ... classification to ... classification" and the time, date, and place of hearing. Said sign shall be located within ten (10) feet of the right-of-way of a public road or street. The sign shall be placed on the property at three hundred (300) foot intervals. One sign shall suffice for lesser distances. The size of the letters on the sign shall be a minimum of two and one-half inches in height. Such sign shall be posted ten (10) days before the date of the hearing. The Council may adopt such

amendment, supplement, change, or repeal without further reference to the Planning Board. If the Planning Board recommended disapproval of the change, however, such amendment shall not be passed except by an affirmative vote of four (4) Council members.

Whenever a written protest against a proposed amendment, supplement, change, or repeal is presented duly signed by the owners of twenty percent (20%) or more of the frontage of the block proposed to be altered, or by the owners of twenty percent (20%) or more of the frontage of the block immediately in the rear thereof, or by the owners of twenty percent (20%) of the frontage of the block directly opposite the frontage proposed to be altered, such amendment shall not be passed except by a concurring vote of four (4) Council members.

21.05

SCHEDULING PUBLIC HEARING BY COUNCIL:

Council shall schedule a public hearing not more than forty (40) days from the receipt of the recommendation from the Planning Board.

21.06

NOTICE TO PROPERTY OWNERS:

If the proposed amendment is intended to rezone or redistrict ten (10) or less parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least ten (10) days before the day of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by Council. The failure to deliver the notification, as provided in this section shall not invalidate any such amendment. The notice shall contain the same

information as required of notices published in newspapers and/or posted in public places as required for hearings on ordinances.

21.07

AMENDMENT LIMITATION:

Petitions for zoning amendment, conditional use permit or variances concerning any parcel of, portion thereof, or use thereon shall not be accepted for consideration more than once during any consecutive twelve (12) month period.

21.08

ANNEXATION:

All land annexed to the City subsequent to the adoption of this Ordinance shall remain subject to the previous Township zoning district until such time as the Official Zoning Map is amended according to the provisions of this Article. All land annexed to the City which, prior to annexation, is not subject to Township zoning shall remain un-zoned until the Official Zoning Map is amended according to the provisions of this Article.

21.09

FEES:

Fees will be determined by resolution of the City of Bellbrook. (See Section 19.15).

ARTICLE 22

VALIDITY AND SEVERABILITY

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

ARTICLE 23

INTERPRETATION AND CONFLICT

In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of public health, morals, safety, and the general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or Ordinances, the most restrictive, or that imposing the high standards, shall govern.

ARTICLE 24

REPEAL OF CONFLICTING ORDINANCES

All ordinances, or parts of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed and declared null and void and of no effect.

ARTICLE 25

EFFECTIVE DATE

(1) Date of public hearing_____

(2) Date of Publication_____

(3) Date of Adoption by the Village Council: January 24, 1972

(4) Date and time this Ordinance shall take effect_____