

**Zoning Ordinance
Of the
Village of Sugarcreek, Ohio
Ordinance No.96-1346
Effective June 27, 1996***

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ARTICLE I
TITLE, PURPOSE AND INTENT

Section 100. Title

This Ordinance shall be known and may be cited and referred to as the "Zoning Ordinance of the Village of Sugarcreek" or "Zoning Ordinance".

Section 101. Purpose

The purpose of this ordinance is to:

- (a) Promote and protect the public safety, convenience, comfort, prosperity and general welfare by regulating and limiting the use of land and building and the erection, restoration and condition of buildings and additions thereto, and the use thereof for agricultural, residential, business and industrial purposes;
- (b) Regulate the area and dimensions of land, yards and open spaces so as to secure adequate light, pure air, and safety from fire and other dangers;
- (c) Conserve the taxable value of land and buildings throughout the Village of Sugarcreek;
- (d) Lessen or avoid congestion on the public streets;
- (e) Regulate and restrict the bulk, height, design, percent of lot occupancy and the location of building;
- (f) Protect the character and values of the agricultural, residential, business, industrial, institutional and public areas and to assure their orderly and beneficial development;
- (g) Provide for the orderly development and beneficial use of public facilities such as recreational areas, school, municipal buildings and hospitals;
- (h) Provide for the most advantageous use of public utilities, such as water, production and transmission, sewerage collection and disposal and storm drainage; and,
- (i) Provide for the orderly growth and development of lands and for the orderly and advantageous redevelopment of lands, and for said purposes, to divide the city into various districts.

ARTICLE II
DISTRICTS AND GENERAL PROVISIONS

Section 200. Districts

In order to carry out the provisions of this ordinance the Village of Sugarcreek is divided into the following districts:

- S-1 Special District
 - R-1 Suburban Residential District
 - R-2 Low Density Residential District
 - R-3 Moderate Density Residential District
 - R-4 High Density Retirement Living
 - B-1 Local Business District
 - B-2 Highway and General Business District
 - B-3 Central Business District
 - M-1 Restricted Industrial District
 - M-2 General Industrial District
 - T Tower Overlay District
 - FP Floodplain Overlay District
- (Ord. 02-1637. Passed 05-20-02.)

Section 201. District Map

201.1 The boundaries of the districts are shown upon the map which is made part of this Zoning Ordinance, and designated as the District Map. This District Map, together with all the notations, references and other information shown thereon are a part of this Ordinance. The original District Map, or Official Map, is properly attested and is on file with the Clerk.

201.2 No amendment to this ordinance which involves matter portrayed on the District Map shall become effective until after such change and entry has been made on said map. No changes of any nature shall be made on the District Map except in conformity with the procedures set forth in this ordinance.

201.3 The Official District Map shall be the final authority as to the current zoning status of land and water area, buildings and other structures.

Section 202. District Boundaries

202.1 The District boundary lines on such map are intended to follow either centerlines of thoroughfares or railroads or lot lines. In the case of unsubdivided property, the District boundary lines shall be determined by the use of the scale appearing on the Zoning Map or by dimensions.

202.2 Whenever any street, alley or other public way is vacated by official action of Council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district.

Section 203. Compliance with Regulations

203.1 No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformance with all of the regulations herein specified for the district in which it is located.

203.2 No building or other structure shall hereafter be erected or altered:

- (a) to exceed the height;
- (b) to accommodate or house a greater number of families;
- (c) to occupy a greater percentage of lot area;
- (d) to have narrower or smaller rear yards, front yards, side yards or other spaces; than herein required; or in any other manner contrary to the provisions of this ordinance.

203.3 No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

Section 204 Interpretation and Conflict

204.1 In interpreting and applying the provisions of this Zoning Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any resolution, rules, regulations or permits previously adopted or issued, and not in conflict with any provisions of this Ordinance or which shall be adopted or issued, pursuant to law relating to the use of buildings or premises and likewise not in conflict with this Ordinance nor is it intended by the Ordinance to interfere with or abrogate or annul any easement, covenant, or other agreements between parties; provided, however, that where this Ordinance imposes greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces or larger lot area than is imposed or required by such other resolution or agreements, the provisions of this ordinance shall control. Unless specifically provided otherwise in this Ordinance, if the requirements of an Overlay District conflict with the requirements of the underlying district or any other ordinance, the requirements of the Overlay District shall govern. (Ord. 02-1637. Passed 05-20-02.)

204.2 The provisions hereof are cumulative and are additional limitations on all other laws and ordinances heretofore passed governing any subject matter of this ordinance. Nothing herein shall be deemed or construed to repeal, amend, modify, alter, or change any other ordinance or part thereof not specifically repealed, amended, modified, altered or changed herein, except in such particulars or matters as this code is more restrictive than such other ordinances or parts thereof; and that in all particulars wherein this ordinance is not more restrictive each such other ordinance shall continue and shall be in full force and effect. Notwithstanding any rule, decision or regulation to the contrary, the provisions of this ordinance shall be liberally construed to effectuate the purposes set forth herein.

Section 205. Separability Clause

If any section, subsection, paragraph, sentence or phrase of this Zoning Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 206. Uses Exempted from Provisions of Ordinance

The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any building or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad for the operation of its business or the use of land for essential services as herein defined shall be permitted in all districts established by this ordinance and no zoning certificate shall be required for any building or structure or for the use of any land essential to the operations of a public utility or railroad.

ARTICLE III DEFINITIONS

Section 300. Definitions

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

- (a) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (b) The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.
- (c) The word "shall" is mandatory; the word "may" is permissive.
- (d) The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied."
- (e) The word "lot" includes the words "plot" or "parcel".

300.2 Interpretation: The definitions herein are established to promote consistency and precision in the interpretation of zoning regulations. Interpretation shall be guided by the following:

- (a) In order to fulfill the intent and purpose of this code, the Zoning Inspector shall have the authority to define any word or interpret any definition contained herein.
- (b) The meaning and construction of words and phrases defined in this chapter shall apply throughout this code, except where the context of such words or phrases clearly indicates a different meaning. Additional terms which are applicable to a particular chapter are defined in that chapter.
- (c) When words are not defined, the generally accepted dictionary definitions shall prevail. If a term or word causes difficulties in interpretation and is not properly described, the Planning Commission shall define the term and recommend to Council its inclusion in this code as an appropriate definition.

300.3 Terms Defined

Accessory Use or Structure: A use or structure customarily incidental and subordinate to the main use of the land or building and on the same lot as the main use or building. An accessory use may be conducted in a main building or accessory structure. An accessory structure is detached from the main building. (Ord. 01-1591. Passed 06-18-01.)

Adult Business:

- (a) Adult Bookstore, Adult Novelty Store, or Adult Video Store: A commercial establishment which, as one of its principal business purposes, offers for sale or rental any form printed or digital matter, or other visual representations that are characterized by the depiction of or description of sexual activities or anatomical genital areas, or paraphernalia that are designed for use in connection with sexual activities. Such establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing sexual activities or anatomical genital areas and still be categorized as an Adult Bookstore; Adult Novelty Store, or Adult Video Store. Such other business purposes will not serve to exempt a commercial establishment from being categorized as an Adult Bookstore, Adult Novelty Store, or Adult Video Store so long as one of the business purposes is considered under this code as an Adult Business. Further, an existing business which adds to its principal business purposes the offering for sale or rental of material depicting or describing sexual activities or anatomical genital areas shall be categorized as an Adult Bookstore, Adult Novelty Store, or Adult Video Store and subject to regulation as an Adult Business under this code. (Ord. 01-1617. Passed 01-07-02.)
- (b) Adult Entertainment: A commercial establishment that as one of its principal business purposes, regularly features live entertainment or motion pictures, videocassettes, videodisks, or other photographic or digital reproductions which is characterized by the depiction of or description of sexual activities or anatomical genital areas. Such establishment may have other principal business purposes that do not involve live entertainment or motion pictures, videocassettes, videodisks, or other photographic or digital reproductions depicting sexual activities or anatomical genital areas and still be categorized as an Adult Entertainment establishment. Such other business purposes will not serve to exempt a commercial establishment from being categorized as an Adult Entertainment establishment so long as one of the business purposes is considered under this code as an Adult Business. Further, an existing business which adds to its principal business purposes live entertainment or motion pictures, videocassettes, videodisks, or other photographic or digital reproductions depicting sexual activities or anatomical genital areas shall be categorized as an Adult Entertainment establishment and subject to regulation as an Adult Business under this code. (Ord. 01-1617. Passed 01-07-02.)

Agriculture: Agriculture shall include farming, dairying, pasturage, horticulture, viticulture, animal and poultry husbandry, and the processing and sale of agricultural products.

Alley: A service roadway providing a means of public access to abutting property and not intended for general traffic circulation. (Ord. 16-2177. Passed 11-7-16.)

Animal Hospital or Clinic: A facility primarily for the purposes of the consultation, diagnosis and office treatment of household pets, in conjunction with which boarding may only be offered during the period of treatment.

Automotive Wrecking, Salvage and Storage: The dismantling or disassembling of used motor vehicles or trailers or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts.

Basement: A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground.

Bed and Breakfast: A residential dwelling unit conducted as a Home Occupation where short term lodging, with or without meals, is provided for compensation.

Board: The Board of Zoning Appeals of the Village of Sugarcreek, Ohio.

Building: A structure designed or built for the shelter, support or enclosure of persons, animals, chattel or property of any kind. When separated by division walls from the ground up without an interconnecting openings, each portion of such building shall be deemed a separate building.

Building, Height of: The vertical distance measured from the established grade opposite the middle of the front of the building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the mean height level between eaves and ridges for gable, hip and gambrel roofs.

Building, Principal or Main: A building in which is conducted the main or principal use of the lot on which said building is situated. One and two family residential districts are limited to one main building per lot. In other districts, a grouping of main buildings held under unified ownership shall be considered the principal or main building.

Business Services: An activity conducted for gain which renders services to other commercial or industrial enterprises.

Child Care Facility: A facility where, care, protection and supervision are provided to children on a regular basis for a fee and in accordance with applicable state laws pertaining to licensing and regulation.

Clerk-Treasurer: The Clerk-Treasurer of the Village of Sugarcreek, Ohio.

Commercial Entertainment Facilities: Any activity conducted for gain which is generally related to the entertainment field, such as motion picture or other theater, billiard or pool room, bowling alley and all other similar places of amusement.

Commission: The Planning Commission of the Village of Sugarcreek, Ohio.

Conditional Use: A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Planning Commission, and further subject to special requirements, different from those usual requirements for the district in which the conditional use may be located. A conditional use is not considered to be a nonconforming use.

Council: The Council of the Village of Sugarcreek, Ohio.

Districts, Zoning Districts: Any area of the municipality for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform. Boundaries of the districts are shown on a district map, which is a part of this ordinance.

Drive-in Commercial Uses: Any use that by design of physical facilities encourages or permits customers to receive a service or obtain a product while remaining in a motor vehicle, such as drive-in restaurants, auto washes, bank tellers, and similar uses.

Dwelling: A building or portion of a building designed exclusively for residential occupancy but not including hotels or motels.

Dwelling, Multiple-family: A building consisting of three or more dwelling units.

Dwelling, Single-family: A building consisting of one dwelling unit.

Dwelling, Two-family: A building consisting of two dwelling units.

Dwelling Unit: One or more rooms designed to create an independent housekeeping establishment with each unit having sleeping, cooking, and toilet facilities.

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

Family: One or more persons related by blood, marriage, adoption or guardianship, or not more than three persons not so related, occupying a dwelling unit and living as a single nonprofit housekeeping unit. (Ord. 01-1591. Passed 06-18-01.)

Food Processing: The commercial processing or other preparation of food for human consumption, but not consumed on the premises.

Forestry: The growing and care of trees for commercial purposes, including the cutting and marketing of timber.

Gas or Service Station: A premises where gasoline and other petroleum products are sold and/or light maintenance and minor repairs are conducted but not including engine overhauls, body work and painting. Sales of beverages, packaged foods, and similar convenience goods may also be included as incidental to the principal operation.

Highway, Major: A street or road of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.

Home Occupation: Any gainful activity conducted in a dwelling unit which is zoned for residential use, and is clearly subordinate to the residential use of the dwelling unit.

Hotel and Motel: A building or group of buildings offering transient lodging accommodation for compensation to the general public and may provide additional services such as restaurants, meeting rooms or central services.

Loading Space: An off-street space, in addition to required off-street parking spaces, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which has an appropriate means of access.

Lot: A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including a principal building together with its accessory buildings, the required yard area and parking spaces, and having its principal frontage upon a street or upon an improved public street or alley. (Ord. 16-2177. Passed 11-7-16.)

Lot, Frontage: The portion of the lot abutting an improved public street or alley. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to an improved public street or alley shall be considered frontage. (Ord. 16-2177. Passed 11-7-16.)

Lot Area: The total horizontal area within the lot lines of a lot exclusive of right-of-way of any public or private street.

Lot, Corner: A lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees.

Lot Coverage: The ratio of enclosed ground floor area of all buildings to the area of the lot, expressed as a percentage.

Lot Depth: The horizontal distance between the front and the rear lot lines measured along the median between the two side lot lines.

Lot, Frontage: The portion of the lot abutting the street.

Lot of Record: A lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat.

Lot, Through: A lot other than a corner lot, having frontage on two (2) or more streets.

Lot Width: The width of a lot measured at any point between side lot lines. (Ord. 16-2177. Passed 11-7-16.)

Manufactured Home: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code. The term single-family dwelling shall include manufactured homes when placed on permanent foundations. Manufactured homes are distinguished by two types as follows:

- (a) Residential Design Manufactured Homes (RDMH), are Manufactured homes meeting Residential Design Standards contained in this ordinance.
- (b) Standard Design Manufactured Homes (SDMH), are manufactured homes certified as meeting HUD code or certified as meeting the standards of prior construction codes, and found to be in excellent condition and safe for continued residential occupancy, but in both cases not meeting Residential Design Standards contained in this ordinance.

Manufactured Housing Development: Any land area planned and improved for the placement of manufactured homes. Manufactured housing developments include the following:

- (a) A parcel of land under unified ownership or management utilized for the siting of manufactured homes for use as single family residences, including any land, buildings or facilities used by residential occupants and referred to as a park.
- (b) A parcel of land improved for the siting of manufactured homes for use as single family residences on lots as defined herein, platted and all applicable improvements provided according to the Subdivision Regulations, offered for sale and referred to as a subdivision.

Manufacturing: Any production or industrial process, including food processing, which combines one or more raw materials or components into a product, or which changes the nature of the materials entering the process.

Manufacturing, General: The basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes that potentially involve hazardous or commonly offensive conditions.

Manufacturing, Restricted: Any manufacturing or industrial production from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding general manufacturing.

Mineral Extraction, Storage, and Processing: The removal of sand, gravel, earth, rock, stone or mineral bearing substance from the ground for the purpose of obtaining any mineral therefrom, and, the processing of the extracted materials.

Municipality: The Village of Sugarcreek, Ohio

Nonconforming Structure: A building or structure legally existing at the time of passage of this ordinance, or subsequent amendments thereto, and which does not comply with the dimensional or other building requirements of the district in which such structure is located.

Nonconforming Use: The lawful use of land which does not conform with the use regulations of the district in which it is situated but which complied with applicable regulations at the time the use was established.

Nursing Home: A convalescent or extended care facility which specializes in providing necessary services to those unable to be responsible for themselves, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

Parking Lot: An open area, other than a street, used for the parking of vehicles and available to the public, or as an accommodation to employees, clients, or customers, with or without a fee being charged, but does not include the storing of abandoned, impounded or wrecked vehicles.

Parking Space, Off-Street: Any parking space located wholly off any street, alley, sidewalk, either in an enclosed building or on an open lot and where each space has an area of not less than one hundred eighty (180) square feet and a minimum width of nine (9) feet, exclusive of access drives or aisles.

Personal Services: Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repairing, barber shop, beauty parlors, and similar activities.

Professional Activities: The use of offices and related spaces for such professional services as are provided by doctors, dentists, lawyers, architects, engineers and other similar professional services.

Public Service Facility: The erection, construction, alteration, operation, maintenance of buildings, power plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water and sewerage services.

Public Uses: Public parks, schools, and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

Recreation Facilities:

- (a) Noncommercial Recreational Facilities: Private and semipublic recreational facilities which are not operated for commercial gain. Noncommercial recreational facilities may be leased to outside groups or organizations provided the fee for such purposes is limited to incidental maintenance and custodial expenses.
- (b) Commercial Recreational Facilities: Recreational facilities open to the public, established and operated for a profit.

Recreational Vehicle or Trailer: A vehicle or portable structure designed and constructed to be used as a temporary dwelling for travel, recreational and vacation uses, including but not limited to the following:

- (a) Travel trailer - a vehicular portable structure built on a chassis as a non-self-propelled vehicle including tent-type fold-out trailer and designed to be used as a temporary dwelling;
- (b) Pick-up camper - a structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling;
- (c) Motorized home - portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (d) Boats and boats trailers - includes boats, floats, rafts, and the normal equipment to transport same.

Research and Testing Facility: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Retail Business: Premises where goods and merchandise are offered or kept for sale at retail, including storage of limited quantities of such goods and merchandise sufficient only to service such establishment.

Sand, Gravel and Topsoil Extraction: The excavation, storage, separation, cleaning and marketing of sand, gravel and topsoil.

Semipublic Uses: Places of worship, parochial or private schools, colleges, hospitals, and other institutions of an educational, religious, charitable or philanthropic nature.

Setback: The minimum horizontal distance by which any building or structure will be separated from a lot line.

Sewage Disposal System, Group: An approved sewage disposal system which provides for the combined collection and disposal of sewage from a group of residential, commercial or industrial buildings.

Sewage Disposal System, Individual: A septic tank installation on an individual lot which utilizes an aerobic bacteriological process for the elimination of solid wastes and provides for the proper and safe disposal of the effluent, subject to the approval of appropriate health and sanitation officials.

Sign:An identification, description, illustration or device which is affixed to or integrated into a building, structure, or land, and which directs attention to a product, place, activity, person, institution or business. Signs are further defined and regulated in Section 801 of this ordinance.

Social Activities: Any building and land used for private or semi-private club activities, including lodges, fraternities and similar activities.

Solicitor: The Solicitor of the Village of Sugarcreek, Ohio

Specialized Animal Raising and Care: The use of land and buildings for the raising and care of fur-bearing animals such as rabbits and domestic pets, the stabling and care of horses, and animal kennels. Any premises where a combination of fewer than (4) mature domestic pets are kept shall not be considered a kennel. (Ord. 14-2101. Passed 02-18-14.)

Story: That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling above it. A basement shall be counted as a story if two-thirds of its volume is above the average level of the adjacent ground.

Street Line: A dividing line between a lot, tract or parcel of land and contiguous improved public street or alley. (Ord. 16-2177. Passed 11-7-16.)

Structural Alterations: Any change which would tend to prolong the life of a supporting member of a structure such as bearing walls, columns, beams or girders.

Structure: Anything constructed or erected with a fixed location on or in the ground or attached to something having a fixed location on or in the ground. Among other things, the term includes buildings, walls, fences, signs, and backstops for tennis courts, swimming pools, tanks and towers.

Structure, Temporary Commercial: A nonresidential structure with no foundation, footers or other means of permanent installation that is intended to be located on or in the ground for a limited duration and removed when the time period for which the structure was approved has expired. (Ord. 03-1681. Passed 08-04-03.)

Swimming Pool: Any privately owned pool, lake or open tank, not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than one and one-half (1 1/2) feet, but not including farm ponds in agricultural districts.

Temporary Use Any use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.
(Ord. 16-2163. Passed 04-18-16.)

Transport and Trucking Terminal: The use of land, buildings, or structures for the purpose of storing, servicing, repairing, or loading trucks, transport trailers, and/or buses, but does not include gas or service stations or transportation sales or rental outlets.

Use: The purpose or activity, for which land or structures are designed, arranged or intended or for which they are occupied and maintained.

Variance: A modification of the strict terms of the regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulation would result in unnecessary hardship and/or a practical difficulty.

Wholesale Business: An establishment primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard: An open space at grade between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard, Front: A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street right of way and the main building or any projections thereof, other than the projections of uncovered steps, uncovered balconies or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension. Where a lot has frontage on more than one street right of way, with one right of way designated a state or federal highway, the front yard shall be considered to be parallel to such state or federal highway.

Yard, Rear: A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches.

Yard, Side: A yard between the main building and the side line of the lot and extending from the required front yard line to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

Zoning Certificate: The document issued by the Zoning Inspector authorizing the use of the land or buildings.

Zoning District Map: The official zoning map of the Village of Sugarcreek which indicates the locations and extent of the districts as determined by ordinances adopted by Council.

Zoning Inspector: The Zoning Inspector or his authorized representative appointed by the Council of the Village of Sugarcreek, Ohio.

**ARTICLE IV
USE REGULATIONS**

Section 400 Use Regulations

400.1 Permitted Uses: The permitted and conditional uses for each district are listed below. The interpretation of uses given in categorical terms shall be defined in Article III. Uses not specifically listed or interpreted to be included categorically under this Article shall not be permitted except by amendment to the ordinance.

"S-1" SPECIAL: The purpose of this district is to provide areas for large public or semi-public holdings for recreation and conservation purposes, areas suitable for noncommercial recreation, and areas subject to periodic flooding.

"S-1" Permitted Uses	Conditional Uses
Parks Public Uses Essential Services Accessory Uses Noncommercial Recreational Facility Forestry Plant Cultivation	Semipublic Uses Public Service Facility Commercial Recreational Facility Cemetery Airports Sand, Gravel, Topsoil Extraction Adult Business (Ord. 01-1617. Passed 01-07-02.)

"R-1" SUBURBAN RESIDENCE: The purpose of this district is to provide areas for very low density residential development which may or may not have community water and sewerage facilities.

"R-1" Permitted Uses	Conditional Uses
Single-family Dwelling Residential Design Manufactured Home (RDMH) Public Uses Semipublic Uses Plant Cultivation Essential Services Casual Sales Accessory Uses	Public Service Facility Noncommercial Recreational Facility Home Occupations Bed and Breakfast Establishment Specialized Animal Raising & Care Agriculture Cemetery

"R-2" LOW DENSITY RESIDENTIAL: The purpose of this district is to provide areas for relatively low density residential development which is served by group water and sewerage facilities.

"R-2" Permitted Uses	Conditional Uses
Single-family Dwelling Residential Design Manufactured Home (RDMH) Two Family Dwelling Public Uses Semipublic Uses Plant Cultivation Essential Services Casual Sales Accessory Uses	Multiple-family Dwelling Noncommercial Recreational Facilities Professional Activities Home Occupations Bed and Breakfast Establishment Nursing Homes Public Service Facility

"R-3" MODERATE DENSITY RESIDENCE: The purpose of this district is to provide areas for relatively low density residential development including multiple dwellings as well as one- and two-family residences served by group water and sewerage facilities.

"R-3" Permitted Uses	Conditional Uses
Single-family Dwelling Residential Design Manufactured Home (RDMH) Two-family dwelling Multiple-family Dwelling Public Uses Semipublic Uses Essential Services Manufactured Housing Development Casual Sales Accessory Uses	Noncommercial Recreational Facilities Professional Activities Home Occupations Child Care Clinics Nurseries, Nursing Homes Public Service Facility

"R-4" HIGH DENSITY RETIREMENT LIVING: The purpose of this district is to provide areas for high density residential development to accommodate persons of retirement age, including two-family and multiple family residences served by group water and sewerage facilities while having smaller yard areas for convenience and ease of maintenance.

"R-4" Permitted Uses	Conditional Uses
Two-family dwelling Multiple-family Dwelling Public Uses Semipublic Uses Essential Services Casual Sales Accessory Uses	Noncommercial Recreational Facilities Home Occupations Nursing Homes

"B-1" LOCAL BUSINESS: The purpose of this district is to provide areas for local or neighborhood businesses providing principally convenience goods and personal services which will have a minimal impact on surrounding residential property, but will provide support activities to those adjacent areas. Although the district may allow residential use, it is not intended to offer a residential environment protected from the effects of usual and customary business activity. (Ord. 03-1681. Passed 08-04-03.)

"B-1" Permitted Uses	Conditional Uses
Retail Business Personal Services Professional Activities Offices and Banks Restaurants Social Activities Public and Semipublic Uses Essential Services Accessory Uses	Uses permitted or conditional in the "R-2" District (Ord. No. 00-1526. Passed 03-06-00) Gas or Service Stations Public Service Facility Drive-in Commercial Uses Similar Uses

"B-2" HIGHWAY & GENERAL BUSINESS: The purpose of this district is to provide areas along major highways or thoroughfares which provide sales and services oriented to highway travelers; or general businesses including sale and services for automotive, farm machinery building trades and other related activities that require adequate service by transportation and utilities. Although the district may allow residential use, it is not intended to offer a residential environment protected from the effects of usual and customary business activity. (Ord. 03-1681. Passed 08-04-03.)

"B-2" Permitted Uses	Conditional Uses
Retail Business Personal Services Professional Activities Business Services Offices and Banks Restaurants Taverns Social Activities Hotels and Motels Essential Services Public Services Facility Accessory Uses	Uses permitted or conditional in the "R-2" District (Ord. 03-1681. Passed 08-04-03.) Drive-in Commercial Uses Agriculture Bakeries and Dairies Printing and Publishing Animal Hospitals and Clinics Wholesale Business Commercial Recreation Facilities Sales and Storage of Building Materials Farm Implement Sales and Service Transport and Trucking Terminals Gas or Service Stations Similar Uses

"B-3" CENTRAL BUSINESS: The purpose of this district is to provide a location for a greater intensity of development which encourages pedestrian circulation and permits a variety of commercial, business, cultural and recreational activities. Although the district may allow residential use, it is not intended to offer a residential environment protected from the effects of usual and customary business activity. (Ord. 03-1681. Passed 08-04-03.)

"B-3" Permitted Uses	Conditional Uses
Retail Business Personal Services Professional Activities Business Services Offices and Banks Restaurants Taverns Hotels and Motels Social Activities Public Uses Essential Services Gas or Service Station Parking Lots Accessory Uses	Uses permitted or conditional in the "R-2" District (Ord. No. 00-1526. Passed .03-06-00) Drive-in Commercial Uses Printing and Publishing Animal Hospitals and Clinics Commercial Entertainment Facilities Public Services Facility Similar Uses

"M-1" RESTRICTED INDUSTRIAL: The purpose of this district is to provide locations for light industries with restricted manufacturing operations, research facilities and offices which will have little or no detrimental effects on neighboring land uses. Incorporation of clustered commercial uses is encouraged in the context of a unified commerce center. Although the district may allow residential use, it is not intended to offer a residential environment protected from the effects of usual and customary business activity. (Ord. 03-1681. Passed 08-04-03.)

"M-1" Permitted Uses	Conditional Uses
Restricted Manufacturing Offices Research and Testing Facilities Public Service Facility Essential Services Accessory Uses	Uses permitted or conditional in the "B-2" District Food Processing Warehousing Similar Uses

"M-2" GENERAL INDUSTRIAL: The purpose of this district is to provide locations for industrial activities which involve extensive manufacturing, processing or assembly operations and providing access to materials, adequate transportation facilities, and community services. The incorporation of clustered commercial uses is encouraged in the context of a unified commerce center. Although the district may allow residential use, it is not intended to offer a residential environment protected from the effects of usual and customary business activity. (Ord. 03-1681. Passed 08-04-03.)

"M-2" Permitted Uses	Conditional Uses
General Manufacturing Manufacturing, sale and storage of Building Materials Transport and Trucking Terminals Wholesale and Warehousing Activities Food Processing Grain Elevators and Feed Mills Public Service Facility Essential Services Accessory Uses	Uses permitted or conditional in the "B-2" District Mineral Extraction, Storage and Processing Auto Wrecking, Salvage and Storage Similar Uses

400.2 Conditional Uses: Conditional uses are subject to approval by the Planning Commission in accordance with Article IX of this Ordinance.

400.3 Similar Uses: Upon application for a permit for a building or use not specifically permitted in a district, or upon its own initiation, the Planning Commission may make additions or clarifications based on the following standards:

- (a) Such a use is appropriate to and conforms closely to the basic characteristics of the district to which it is added;
- (b) Such a use does not create dangers to health and safety, and does not create objectionable influences to an extent greater than other uses permitted in the district to which the use is to be added.
- (c) Such a use does not generate traffic to an extent greater than other uses permitted in the district to which the use is to be added.

- 400.4 Accessory Uses: Accessory uses or structures are subject to the following standards:
- (a) No accessory use or structure shall be approved, established or constructed before the main use or structure is approved, established or constructed.
 - (b) An accessory structure or building attached to the main building shall comply with the dimensional requirements applicable to the main building. (Ord. 14-2101. Passed 02-18-14.)
 - (c) No accessory use, building or structure shall exceed the main use in height or floor area.
 - (d) Accessory buildings located on a corner lot shall not project beyond the minimum front yard setback facing both streets.
 - (e) For residential uses, the aggregate total of the ground floor area of all accessory buildings and structures shall not exceed 30% of the area of the rear yard; however, no one building or structure shall exceed 600 square feet regardless of the size of the rear yard. Additionally, where lot coverage provisions exist in any other section of this ordinance, the aggregate total of the ground floor areas of both accessory and main structures shall not exceed the percentage of lot coverage permitted by that section. Fencing and landscape features shall be exempt from this provision. (Ord. 03-1681. Passed 08-04-03.)

400.5 Special Provisions: For special provisions regulating residential, commercial, and industrial uses, refer to Article VII and Article VIII.

ARTICLE V
MINIMUM DIMENSIONAL REQUIREMENTS

Section 500. Basic Yard, Area and Height Requirements for Dwellings

500.1 The following table establishes the yard, area, and height requirements for dwellings by district:

District	Min. Lot Width (ft.)	Min. Lot Area Per Family	Minimum Yard (ft.)		Minimum Yard Width (ft.)		Maximum Height of Buildings	
			Front	Rear	Either Side	Sum of Side Yards	Stories	Feet
"R-1" Individual Water/Sewer	100	20,000 SF	60	60	15	40	2½	35
Group Water/Sewer	90	15,000 SF	50	40	12	30	2½	35
"R-2" Single Family	85	13,000 SF	35	40	10*	25	2½	35
Two-family	120	9,000 SF	35	40	10*	25	2½	35
Multifamily	150	5,500 SF	35	40	10*	25	2½	35
"R-3" Single Family	70	9,000 SF	30	30	6	15	2½	35
Two-family	90	6,000 SF	30	30	10	25	2½	35
Multifamily	135	4,500 SF	30	30	15	30	3	40
"R-4" Two-family	80	2,500 SF	10	10*	10*	20	2½	35
Multifamily	100	2,000 SF	25	20*	15*	25	3	40

* Except where a lot borders on a different zoning district line, there shall be provided a setback of no less than 20 feet.

500.2 Combined sewage disposal systems and water facilities shall be required in the "R-2" and "R-3" Districts.

500.3 Minimum dimensional requirements for Manufactured Homes shall be in accordance with Section 700.

(Ord. 01-1591. Passed 06-18-01.)

Section 501. Floor Area Requirements for Dwellings

The floor area per family in dwellings erected on any lot shall not be less than that established by the following table. In determining floor area, only area used for living quarters shall be counted. Utility rooms, garages, carports, porches, laundry area, heater-rooms and basements are to be excluded.

Districts	Single Family	Two Family	Apartment Dwellings				Average of All Units in Project
			Efficiency	1 Bedroom	2 Bedrooms	3 or more Bedrooms	
"R-1"							
(a) One story	1,200	1,000	----	----	----	----	----
(b) More than one story	1,500	1,200	----	----	----	----	----
"R-2"							
(a) One story	1,100	900	----	----	----	----	----
(b) More than one story	1,400	1,120	----	----	----	----	----
(c) Apartment dwellings	----	----	400	540	700	900	750
"R-3"							
(a) One story	1,000	800	----	----	----	----	----
(b) More than one story	1,200	1,000	----	----	----	----	----
(c) Apartment dwellings	----	----	320	480	600	720	650
"R-4"							
(a) One story	----	750	----	----	----	----	----
(b) More than one story	----	950	----	----	----	----	----
(c) Apartment dwellings	----	----	320	540	600	720	650

Section 502. Basic Yard, Area, Lot Coverage and Height Requirements for All Buildings Other than Dwellings

The following table establishes the yard, area, lot coverage and height requirements for all buildings except dwellings and structures accessory to dwellings by districts:

District	Min. Lot Width (ft.)	Min. Lot Area	Minimum Depth (ft.)		Minimum Width Each Side Yard (ft.)	Maximum percent of Lot Coverage	Maximum Height of Buildings	
			Front Yard	Rear Yard			Stories	Feet
"S-1"	250	3 acres	60	60	50	15	3	45
"R-1"	200	2 acres	60	60	50	15	3	40
"R-2"	150	1 acre	50	50	30	20	2	35
"R-3"	150	1 acre	50	50	30	20	2	35
"R-4"	120	20,000 SF	20	20	20	40	2	35
"B-1"	80	10,000 SF	40	20	None ¹	40	2	35
"B-2"	120	20,000 SF	60	40	None ¹	25	3	45
"B-3" ²	80	10,000 SF	40	20	None ¹	40	3	35
"M-1"	150	1 acre	50	30	30	50	3	45
"M-2"	150	1 acre	50	25	25	50	None	60

¹ Side yard restrictions are waived, subject to the conditions set forth in Section 503.1.

² Requirements may be waived, subject to the conditions set forth in Section 503.2. (Ord, 97-1416. Passed 11-3-97)

Section 503. Yard Requirements for Nonresidential Uses

503.1 Side Yard Requirements: In the "B-1", "B-2", and "B-3" Districts, when there is no vehicular access to the rear yard from a public road, alley, or from an adjacent lot with such access, at least one side yard no less than twelve (12) feet shall be required. The Zoning Administrator may, under advisement by public safety or emergency forces, require additional fire lanes or setbacks to facilitate public safety and emergency access. (Ord, 97-1416. Passed 11-3-97)

503.2 Requirements in the "B-3" District: The Planning Commission may modify or waive all or part of the requirements of Section 502 for uses in the Central Business District as defined by the Village of Sugarcreek Downtown Revitalization Plan of February 5, 1993 and including the following streets:

1. Main Street from Second Street to the Ohio Central Railroad;
2. Broadway from the Ohio Central Railroad to Maple Street;
3. East side of Broadway from Maple Street to Shrock Drive;
4. Maple Street from Broadway to the Ohio Central Railroad;
5. Factory Street from the Ohio Central Railroad to Shrock Drive;
6. Moomaw Drive; and,
7. Shepher Drive from Moomaw Drive to Shrock Drive.

(Ord, 97-1416. Passed 11-3-97)

503.3 Minimum Yard Requirements: Business and industrial buildings or uses shall not be located nor conducted closer to any lot line of an "R" District than the distance specified as follows:

- (a) Commercial: Business uses adjacent to residentially zoned property shall be setback a minimum of 30 feet from the residentially zoned property. The area in the setback shall be buffered in accordance with the requirements of subsection 503.4.
- (b) Industrial: In all industrial districts, industrial uses located adjacent to residentially zoned property shall be setback a minimum of 40 feet from the adjacent residential property line. The area in the setback shall be buffered in accordance with the requirements of subsection 503.4.
- (c) The required setback may not be used for storage or other operations associated with the business or industrial operation.

503.4 Landscaping or Screening Provisions: For nonresidential uses abutting "S" and "R" Districts landscaping or screening shall be installed as follows:

- (a) Screening when used to buffer adjacent residential property shall consist of landscaping, mounding, fencing or any combination. Screening shall be maintained in good condition. Plant material shall be replaced when necessary to maintain the minimum requirements of screening.
- (b) Landscaping shall consist of a strip of land no less than fifteen (15) feet in width planted with at least seventy-five (75%) percent evergreen material which shall provide a minimum four (4) foot opaque appearance. The evergreen material may be supplemented by deciduous plants and trees.
- (c) Mounding shall be a minimum of four (4) feet in height and graded at a slope that can be maintained. All mounds shall be planted to prevent erosion.
- (d) Fencing shall consist of a masonry or solid fence between four (4) and six (6) feet in height, maintained in good condition and free of all advertising or other signs.
- (e) The Zoning Inspector may permit deviation from the screening requirements and may either require more intensive or allow less intensive screening whenever it is determined that such deviations satisfy the need for appropriate screening.
- (f) No certificate of occupancy shall be issued until the landscaping or screening is installed.

Section 504. Height Regulations for Institutional, Office, Industrial and Apartment Buildings and Structures:

504.1 Institutional, industrial and apartment buildings with a height in excess of the minimum height specified in Sections 500 and 502 for such buildings may be permitted provided the required front, side and rear yards are increased by two (2) feet for each foot of additional building height above the maximum specified in Sections 500 and 502, except that no building shall exceed a maximum height of sixty (60) feet without prior approval of the Board of Zoning Appeals.

504.2 The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, storage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, silos and similar structures, elevator bulkheads, smokestacks, conveyors and flagpoles, except where the height of such structures will constitute a hazard to the safe landing and take-off at an established airport.

Section 505. Existing Lots of Record

Any lot of record forty-nine and one-half (49½) feet or wider existing as of June 16, 1975 in any "R" District may be used for the erection, enlargement, or alteration of a single-family dwelling and customary accessory buildings even though its area and width are less than the minimum requirements set forth herein. All yard and floor area requirements shall be met; provided, however that the Zoning Inspector may reduce such requirements by 20% where practical difficulties exist. However, no side yard shall be reduced to less than five (5) feet. Any further reduction in yard and floor area requirements shall be obtained only through a variance requested from the Board of Zoning Appeals. Where two adjacent lots of record with less than the required area and width are held by one owner, the lot shall be combined and used for one (1) main building. (Ord. 16-2177. Passed 11-7-16.)

Section 506. Lot Reduction Prohibited

No lot existing at the effective date of this ordinance shall be reduced in dimension or area below the minimum requirements herein. Lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

Section 507. Architectural Projections

Open structures such as porches, balconies, platforms, carports, and covered patios and similar architectural projections shall be considered a part of the building to which attached and shall not project into the required minimum front, side and rear yard. Ordinary projections of sills, belt courses, roof eaves, cornices, and similar structural and ornamental features may extend to a distance not to exceed eighteen (18) inches into a required yard.

Section 508. Special Yard Requirements

508.1 In any "R" District, no accessory buildings or uses shall be located in any front or side yard. Accessory buildings such as garages may be located in the rear yard provided such buildings are set back at least three (3) feet from the side lot lines and six (6) feet from the rear lot lines. (Ord. 01-1591. Passed 06-18-01.)

508.2 In any "R" District, no accessory uses or structures, or material or equipment storage shall be located in any front yard. (Ord. 01-1591. Passed 06-18-01.)

508.3 Lots having frontage on more than one street shall provide the required front yard along the major traveled street and meet two-thirds of the front setback requirement on the other street. (Ord. 01-1591. Passed 06-18-01.)

508.4 Any portion of a developed lot not used for permitted main and accessory uses shall be landscaped with grass or vegetative ground cover, shrubs and trees such landscaping shall be maintained in good condition. In the development of property, existing trees and significant vegetation shall be retained wherever feasible. For new structures, required landscaping shall be installed within thirty (30) days of completion. To accommodate weather conditions, the Zoning Inspector may extend this time period for no more than six (6) months. (Ord. 14-2101. Passed 02-18-14.)

508.5 When 50% or more of the frontage of residential lots on one side of the street between two intersecting streets is improved with buildings that have front yards which are greater or less than the required front yard, the Zoning Inspector may modify the required front yard setback for any new building or alteration of an existing building to the average front setback established by the existing buildings. However, any modification resulting in a front yard setback less than twenty (20) feet shall be obtained only through a variance requested from the Board of Zoning Appeals.
(Ord. 16-2177. Passed 11-7-16.)

Section 509. Traffic Visibility Across Corner Lots

In any district on any corner lot, no fence, structure or planting shall be erected or maintained within thirty (30) feet of the "corner" at height between two and one-half (2½) and ten (10) feet above curb or street grade, or so as to interfere with traffic visibility across the corner. The "corner" shall be the point of intersection of the two right of way lines.

ARTICLE VI
OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 600. Off-Street Parking Requirements

600.1 General Requirements: In all districts, there shall be provided, at any time any building or structure is erected or is enlarged or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

- (a) Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet and a minimum width of nine (9) feet. Such area shall be exclusive of access drives or aisles, and shall be of usable shape and condition.
- (b) There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does abut on a public or private alley or easement of access, there shall be provided an access drive not less than eight (8) or greater than twenty (20) feet in width in the case of a dwelling. In all other cases there shall be provided an access drive, not less than twenty (20) or greater than twenty-eight (28) feet in width leading to the parking or storage or loading or unloading spaces required hereunder. Each drive shall provide sufficient space and distance to permit a vehicle to enter the street in a forward facing direction. (Ord. 07-1842. Passed 08-06-07.)
- (c) Access drives shall be located such that they are a safe from any street intersection as determined by the Zoning Inspector under advisement from emergency and safety forces. (Ord. 03-1681. Passed 08-04-03.)
- (d) Access to commercial or industrially zoned property shall not be located in any residential zoning district.
- (e) The Planning Commission may waive all or part of the requirements of this Article for uses in the B-3 Central Business District provided that such waiver is based on the following:
 - (1) The strict application of the parking requirements would require more parking than is actually necessary for the proposed use, which could use land inefficiently and create an undesirable appearance of excessive parking areas.
 - (2) The waiver will not encourage unauthorized parking on nearby property or use of parking spaces intended for other establishments.
 - (3) The waiver will enhance the business and pedestrian environment by minimizing curb cuts, driveways, and paved areas that are disruptive to the character of downtown.
 - (4) The proposed use is situated in an area easily accessible by pedestrians.
 - (5) The proposed use will manage its employee parking so as to leave the most convenient spaces for customers of the Central Business District.

(Ord. 03-1681. Passed 08-04-03.)

600.2 Number of Spaces Required: The number of off-street parking spaces to be provided shall not be less than the following:

USE	PARKING SPACES REQUIRED
INSTITUTIONAL	
Church or temple	1 for each 5 seats in main auditorium.
Elementary or middle school	1 for each 5 seats in auditorium or main assembly room, or 1.5 for each classroom, whichever is greater, plus, 1 for each 400 square feet of administrative office space.
High school, college, trade or vocational school	1 for each 5 seats in main auditorium or 4 for each classroom whichever is greater, plus, 1 for each 400 square feet of administrative office space.
Community center, library, museum or art gallery	1 for each 300 square feet of floor area.
Hospital	1 for each 3 beds, plus, 1 for each 400 square feet of administrative office space.
Nursing home or similar institution	1 for each 3 beds.
Municipal, township, county and state buildings open to the public and used for administrative purposes	1 for each 200 square feet of office floor area
RESIDENTIAL	
Dwellings, including 1, 2, and 3 families, multiple dwellings, and manufactured homes.	2 for each dwelling unit.
Bed and breakfast establishment	1 for each guest room or suite (Ord. 03-1681. Passed 08-04-03.)

USE	PARKING SPACE REQUIRED
OFFICE	
Medical offices and clinics	1 for every 200 square feet of floor space.
Other offices	1 for every 300 square feet of floor space.
COMMERCIAL	
Hotel or motel	1 for each guest room plus 50 percent of the spaces otherwise required for accessory uses associated with the establishment.
Retail business or business service establishment not otherwise specifically mentioned	1 for each two hundred fifty (250) square feet of floor area.
Restaurants, nightclubs, cafes or similar establishments, dance halls, assembly or exhibition halls without fixed seats	1 for each one hundred (100) square feet of floor area.
Furniture or appliance store, hardware store, wholesale establishment, machinery or equipment sales and services	1 for each five hundred (500) square feet of display area, plus 1 for each one thousand (1,000) square feet of warehouse area.
Gas or service station	1 for each gas pump and 2 for each service bay, plus, the spaces otherwise required for accessory uses associated with the establishment.
Day care center	1 per every four (4) persons of licensed capacity
Mortuary or funeral home	1 for each fifty (50) square feet of floor space in public rooms.

USE	PARKING SPACES REQUIRED
RECREATION	
Private club or lodge	1 for each four (4) seats in the principal assembly room with fixed seats, or 1 for each one hundred (100) square feet in the principal assembly room without fixed seats.
Golf course, public or private	Four (4) spaces for each green, plus 50 percent of the spaces otherwise required for accessory uses associated with the establishment.
Theater or auditorium (except school auditorium), sports arena, stadium or gymnasium	1 for each five (5) seats or bench seating spaces.
Bowling alley	5 for each alley, plus 50 percent of the spaces otherwise required for accessory uses associated with the establishment.
Billiard hall, bingo parlor, skating rink and other similar amusement centers	1 per one hundred fifty (150) square feet of floor area plus 50 percent of the spaces otherwise required for accessory uses associated with the establishment.
INDUSTRIAL	
Manufacturing, or industrial establishment, research or testing laboratory, bottling plant, or similar establishment	1 for each five hundred (500) square feet of floor area.
Warehouse establishment	2 spaces, plus 1 for each two thousand (2,000) square feet of floor area.

600.3 Interpretation: The following rules shall govern the determination of spaces required:

- (a) "Floor area" shall mean the gross floor area of the specified use.
- (b) Fractional numbers shall be increased to the next whole number.
- (c) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Zoning Inspector.
- (d) Whenever a building or use constructed or established after the effective date of this ordinance is changed or enlarged to create a need for an increase of ten (10) percent or more in the required number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) percent or more in floor area, said building or use shall comply with the parking requirements set forth herein. (Ord. 01-1591. Passed 06-18-01.)

Section 601. Special Parking Provisions: Every parcel of land hereafter used as a public, commercial or private parking lot shall be developed and maintained in accordance with the following requirements.

601.1 Screening and Landscaping: Off-street parking areas for more than ten (10) vehicles shall be effectively screened on each side which adjoins or faces premises situated in any "R" District, in accordance with the provisions of Section 503.3.

601.2 Minimum Distance and Setbacks: Off-street parking areas shall be subject to the following distance and setback requirements:

- (a) No part of any parking area for more than ten (10) vehicles shall be closer than twenty (20) feet to any dwelling, school, hospital or other institution for human care located on an adjoining lot, unless separated by an acceptably-designed screen.
- (b) If on the same lot with a main building, the parking area shall not be located within the front yard required for such building without prior approval of the Planning Commission. The Planning Commission may apply conditions to such approval to ensure pedestrian and vehicular safety and to maintain consistency with prevailing setbacks within the same block.
- (c) In no case shall any part of a parking area be closer than five (5) feet to any established street or alley right-of-way.

601.3 Joint Use: A building containing two or more uses operating normally during the same hours, and which have different off-street parking requirements, shall provide spaces for not less than the sum of the spaces required for each use. Two or more nonresidential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that a written agreement, approved by the Solicitor and accepted by the Planning Commission shall be filed with the application for a zoning certificate. (Ord. 01-1591. Passed 06-18-01.)

601.4 Other Locations: In any nonresidential district, parking spaces may be located on a lot within three hundred (300) feet walking distance to any customer entrance of the principal building with the approval of the Planning Commission, provided a written agreement, approved by the Solicitor and accepted by the Planning Commission shall be filed with the application for a zoning certificate. Any subsequent alteration or amendment to such agreement shall be subject to further review and approval. The Planning Commission shall permit such facilities only if it determines that the pedestrian route between the parking area and the subject use is safe and does not necessitate unlawful trespassing. (Ord. 01-1591. Passed 06-18-01.)

601.5 Surfacing: Any off-street parking area for more than ten (10) vehicles shall be graded and drained as to dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide for orderly and safe loading and unloading, parking and storage of vehicles.

601.6 Lighting: Any lighting used to illuminate any off-street parking area shall be subject to the following:

- (a) Any lot intended to be used during non-daylight hours shall be illuminated.
- (b) Any lighting used to illuminate off-street parking shall be so arranged as to reflect the light away from adjoining property and the public right-of-way.

601.7 Disabled Vehicles: The parking of an unlicensed and disabled vehicle within any district for a period of more than two (2) weeks shall be prohibited, except that such vehicle may be stored in an enclosed garage or other buildings, or open lot owned and operated by a licensed vehicle dealer, provided that no business shall be conducted in connection therewith while such vehicle is parked or stored.

601.8 Reduction of Required Spaces in the "R-4" District: In the "R-4", High Density Retirement Living District, the Zoning Administrator may reduce the number of off-street parking spaces required to one (1) space for each dwelling unit.

Section 602. Off-Street Loading Requirements

602.1 In any district, in connection with every building or part thereof hereafter erected and having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by uses requiring the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space, plus one (1) additional such loading space for each additional twenty thousand (20,000) square feet or major fraction thereof of gross floor area.

602.2 Each loading space shall be ample to accommodate the largest vehicle anticipated and each loading space shall be not less than twelve (12) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height.

602.3 Such space may occupy all or any part of any required side or rear yard.

602.4 No such space shall be located closer than fifty (50) feet to any other lot in any "R" District, unless wholly within a completely enclosed building or unless enclosed on all sides facing lots in any "R" District by a wall or fence not less than six (6) feet in height.

ARTICLE VII
SPECIAL PROVISIONS

Section 700. Manufactured Homes

700.1 Manufactured homes approved as Residential Design Manufactured Homes (RDMH), shall be permitted in residential districts subject to requirements and limitations applying generally to such residential use in the districts, including minimum floor area, lot, yard and building spacing, percentage of lot coverage, off-street parking requirements and approved foundations as described in this ordinance. The following standards shall be used in determinations of similarity in appearance between RDMH homes and site built housing which has been constructed in adjacent or nearby locations. (Ord. 01-1591. Passed 06-18-01.)

- (a) Minimum width of main body. Minimum width of the main body of the RDMH as located on the site shall not be less than twenty feet, as measured across the narrowest portion, excluding any offsetting of portions of the home.
- (b) Minimum roof pitch, minimum roof overhang; roofing materials. Minimum pitch of the main roof shall be not less than one foot to rise for each 4 feet of horizontal run and minimum roof overhang shall be one foot. In cases where site built housing generally has been constructed in adjacent or nearby locations with roof pitches less than 1:4 and/or roof overhangs are less than one foot, then the RDMH may have less roof pitch and overhang similar to the site built houses. Roofing material may be used which is generally used for site built houses in adjacent or nearby locations.
- (c) Exterior finish; light reflection. Any material may be used for exterior finish which is generally acceptable for site built housing which has been constructed in adjacent or nearby locations, provided however that reflection for such exterior shall not be greater than from siding coated with clean white gloss exterior enamel.
- (d) Approved foundations required in residential districts. No RDMH shall be placed or occupied for residential use on a site in a residential district until such foundation plans have approved by the Zoning Inspector as to the appearance and durability of the proposed foundation and being acceptable, similar, or compatible in appearance to foundations of residences built on adjacent or nearby sites.
- (e) Site orientation of the manufactured home. RDMH shall be placed on lots in such a manner as to be compatible with and reasonably similar in orientation to the site built housing which has been constructed in adjacent or nearby locations.
- (f) Garages, carports. In residential neighborhoods where adjacent to nearby site built homes includes garages and/or carports, a RDMH shall be required to be provided with a garage and/or carport compatible with the RDMH and the site built garages and/or carports constructed in adjacent or nearby locations.

- (g) All mobile homes, trailers, or similar portable residential structures approved prior to the adoption of this ordinance, and not located in a mobile home park or similar development, shall be declared conforming. When permits are requested for replacement of existing units, the replacement unit shall be an RDMH as defined in this ordinance. The Zoning Inspector may reduce up to 20% the requirements for floor area, minimum lot size and width, and minimum setbacks if necessary to better situate the RDMH on the lot. (Ord. 14-2101. Passed 02-18-14.)

700.2 Standard Design Manufactured Homes (SDMH) shall be permitted in a Manufactured Housing Development in an "R-3" Residence District only.

700.3 Manufactured Housing Developments shall be constructed to meet the minimum requirements of the Subdivision Regulations of the Village of Sugar Creek and shall conform to the following requirements:

- (a) Shall contain a minimum of five (5) acres.
- (b) Shall provide an adequate supply of municipal water.
- (c) Shall provide an adequate system of collective sanitary sewers, sewage treatment and disposal.
- (d) Shall provide for a minimum of ten (10) lots developed at time of first occupancy.
- (e) Shall provide a clearly defined minimum lot area of four thousand five hundred (4,500) square feet for a single section unit and five thousand (5,000) square feet for a double section unit.
- (f) Shall provide a minimum lot width of forty-five (45) feet for a single section and fifty (50) feet for a double section and nine hundred (900) square feet of floor area for each unit.
- (g) Shall provide a minimum of twenty (20) feet clearance between the individual manufactured homes or any buildings located on the site, and, a fifty (50) foot setback from any property line bounding the Manufactured Housing Development.
- (h) Shall provide direct vehicular access to the development by means of an abutting improved public street. Each development shall be provided with thoroughfares for complete and uninterrupted traffic circulation within its boundaries.
- (i) Shall provide two (2) off-street parking spaces for each manufactured home. One such parking space shall be provided at each site. The second space may be located in parking areas located on the site so as to be no more than 150 feet from the unit for which the space is designated.

- (j) Shall provide for not less than ten (10) percent of the gross site area shall be devoted to open space or recreational facilities, including space for community buildings and community use facilities, such as guest parking, adult recreation and child play areas and swimming pools. Where practical, recreational facilities shall be centrally located. Land set aside for such open space or recreation purposes shall be subject to legally enforceable reservations and restrictions which will ensure the preservation of the land in perpetuity and absolutely prohibit development of such land except for permitted recreational use by the owners and residents without profit. No area to be computed as recreation space shall have a dimension less than 20 feet, measured in any direction.
- (k) Shall conform to all County and State Health Department requirements.
- (l) Shall screen space beneath the units by skirting or other appropriate means.
- (m) Shall be landscaped with lawns and plantings, including appropriate trees.
- (n) Shall provide for effective screening of the Manufactured Home Development on all sides by means of walls, fences or plantings except where the area is sufficiently removed from other development as determined by the Planning Commission. Walls or fences shall be a minimum of four (4) feet in height without advertising thereon. In lieu of such wall or fence, a strip of land not less than ten (10) feet in width and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than four (4) feet in height may be substituted.

700.4 Prior approved developments: All mobile parks or similar developments approved prior to the adoption of this ordinance shall be declared conforming. When permits are requested for replacement of existing manufactured homes or older units, the replacement unit shall be an RDMH or SDMH as defined in this ordinance. The Zoning Inspector may reduce up to 20% the requirements for floor area, minimum lot size and width, and minimum setbacks if necessary to better situate the RDMH or SDMH on the lot. (Ord. 14-2101. Passed 02-18-14.)

Section: 701. Parking or Storage of Recreational Vehicles, Trailers and Boats; Fuel Storage

701.1 The parking of camping or vacation trailers, boats and utility or boat trailers shall be prohibited in any residential district for forty-eight (48) hours or a longer period of time except that such vehicles, trailers and boats may be stored in an enclosed garage or other accessory building or parked in the rear yard of a residential property, provided:

- (a) That in all cases no living quarters shall be maintained or any business conducted while the vehicle, trailer or boat is stored or parked.
- (b) The vehicle, trailer or boat is intended and used for the sole benefit and enjoyment of the resident occupants of the property on which it is stored or parked.

- (c) The vehicle, trailer or boat shall not be parked closer than five (5) feet to the side or rear lot lines of the property on which it is stored or parked.

701.2 Gasoline and other petroleum product storage tanks exceeding fifty-five (55) gallons capacity are prohibited from all residential districts; provided however, that the following are exempted:

- (a) Storage tanks or cylinders with a maximum capacity of 125 water gallons of liquefied petroleum (LP) gas for each main building served.
- (b) Fuel oil tanks for supplying oil burning heating equipment with a maximum capacity 275 gallons for each main building served. (Ord. 14-2101. Passed 02-18-14.)

Section 702. Swimming Pools

702.1 Private Swimming Pools shall be allowed in the rear yard of any "B" or "R" District as an accessory use and shall comply with the following conditions and requirements:

- (a) The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
- (b) The pool or any accessory structure shall be located no closer than ten (10) feet to any property line of the property on which located.
- (c) The swimming pool, or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access from the street or from adjacent properties. Said fence or wall shall be not less than four (4) feet in height and maintained in good condition with self-closing and self-latching devices or be otherwise firmly secured and locked. Alternatively, for swimming pools with 100 square feet or less of surface area, the Zoning Inspector may authorize the pool to be equipped with a cover which may be securely fastened and locked and which shall be of sufficient strength to support the weight of an adult.
- (d) All lights used for the illumination of the swimming pool and adjacent areas shall be designed, located and installed so as to confine the direct beams thereof to the lot or parcel on which the pool is located
- (e) A Zoning Certificate is required prior to construction of a private swimming pool in accordance with Section 1101.
- (f) Any owner of any outdoor swimming pool that has not been used and maintained as a clean, water-filled, functioning swimming pool for a period of six consecutive months must do one of the following:
 - (1) Make the swimming pool a clean, water-filled, functioning swimming pool; or
 - (2) Fill, demolish, remove or otherwise deconstruct the swimming pool.

(Ord. 12-2054. Passed 09-17-12.)

702.2 Community or Club Swimming Pools: A community or club swimming pool shall be any pool constructed by an association of property owners or by a private club. Community and club swimming pools are permitted in all districts, but shall comply with the following conditions and requirements:

- (a) The pool is intended solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
- (b) The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer than one hundred (100) feet to any property line of the property on which located.
- (c) The swimming pool and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access from the street or adjacent properties. The said fence or wall shall not be less than six (6) feet in height and maintained in good condition and be firmly secured and locked when unattended.
- (d) All lights used for the illumination of the swimming pool and adjacent areas shall be designed, located and installed so as to confine the direct beams thereof to the lot or parcel on which the pool is located
- (e) A Zoning Certificate is required prior to construction of a community or club swimming pool in accordance with Section 1101.
- (f) Any owner of any outdoor swimming pool that has not been used and maintained as a clean, water-filled, functioning swimming pool for a period of six consecutive months must do one of the following:
 - (1) Make the swimming pool a clean, water-filled, functioning swimming pool; or
 - (2) Fill, demolish, remove or otherwise deconstruct the swimming pool.

(Ord. 12-2054. Passed 09-17-12.)

Section 703. Fences and Planting Screens

703.1 No person shall erect, construct, reconstruct, or move any fence without first obtaining a permit. A drawing showing the height, location and type of fence as well as the materials to be used in constructing the fence shall be submitted to with the permit application. Fences shall be permitted subject to the following regulations:

- (a) Fencing shall be maintained in good condition without advertising thereon.
- (b) The supporting rails and posts of any fence shall face the interior of the property of the owner of such fence and shall not face the adjacent property; the finished side of the fence, as contrasted with the rough and unfinished side, shall face the property of the adjacent property owner. Double-sided fences shall only be permitted when the same style is used on both sides of the fence. Fences constructed in whole or in part of barbed wire, razor wire, guardrail, or electrified are prohibited in any "R"

district.

- (c) In any "R" district, fences, plant material and similar screening devices up to three (3) feet in height are permitted in yards fronting on the public street. These same screening devices up to six (6) feet in height are permitted in the remaining yards. Fences, plant material and similar screening devices shall be located at least one three (3) feet from the edge of any right of way; provided however, that such fences, plant material and similar screening devices shall not interfere with visibility to or from a driveway.
- (d) In any "B" or "M" district, fences, plant material and similar screening devices up to four (4) feet in height are permitted in yards fronting on the public street. These same screening devices up to eight (8) feet in height are permitted in the remaining yards. Fences, plant material and similar screening devices shall be located at least three (3) feet from the edge of any right of way; provided however, that such fences, plant material and similar screening devices shall not interfere with visibility to or from a driveway. The area between a fence and adjoining residential property shall be maintained in grass, evergreen shrubs or trees.
- (e) For any fence proposed to be constructed adjacent to, or in proximity with, a common property line, the property owner proposing the fence shall:
 - (1) Construct the fence of maintenance-free materials as determined by the Zoning Inspector;
 - (2) Construct the fence so it can be easily dismantled from its owner's side for the purpose of maintaining it entirely within the owner's property; or
 - (3) Enter into a written agreement with the neighboring property owner stating that the owner of the fence has free access to the neighboring property for the purpose of maintaining the fence and land beneath. A copy of this agreement must be submitted with the application for a fence permit.

If at least one of these conditions is not met, the fence shall be placed a minimum of three (3) feet from the neighboring property line.

(Ord. 12-2054. Passed 09-17-12.)

Section 704. Casual Sales

704.1 All sales titled or labeled "garage sale", "yard sale", "attic sale", "rummage sale", "flea market sale" or other similar titles shall be considered Casual Sales meaning any sale of tangible personal property not otherwise regulated in this section and advertised by any means whereby the public at large is or can be made aware of such sale. "Goods" means any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

704.2 No person, firm, group, corporation, association or organization shall sell or offer to sell any goods at a sale to be advertised or held out by any means to be one of the type of sales enumerated in Section 704.01, without first registering such sale with the Village Clerk. There shall be no fee charged to register a sale. Sales occurring at multiple locations on the same date and under the same sponsorship shall only be required to have one registration.

704.3 To register a sale, the applicant shall provide the following information to the Village Clerk:

- (a) The name of the person, firm, group, corporation, association or organization conducting the sale;
- (b) The location or locations at which the sale is to be conducted;
- (c) The number of days which the sale is to be conducted within the limit hereinafter prescribed;
- (d) The dates of any past sale held within the last twelve months;

704.4 No sale shall be conducted for a period longer than four (4) days, and no person or address shall register more than two (2) such sales within any twelve month period; provided, however, that the Zoning Inspector may for good cause authorize the issuance of one (1) additional registration within such twelve-month period.

704.5 The provisions of this section shall not apply to, or affect the following persons or sales:

- (a) Any sale regulated under any other provisions of the Village Codified Ordinances;
- (b) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning ordinances or under the protection of the presently nonconforming section thereof, or any other sale conducted by a manufacturer, dealer or vendor, which sale would be conducted from properly zoned premises and is not otherwise prohibited;
- (c) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization, provided, however, that the burden of establishing the exemption under this subsection shall be on the organization or institution claiming such exemption; and,
- (d) Any sale of household furnishings in connection with a bona fide effort to sell the improved real estate upon which such household furnishings are situated.

Section 705. Home Occupations

705.1 In addition to the Conditional Use requirements in Article IX, the following shall apply to Home Occupations in any "R" District. The Planning Commission may vary these requirements if they determine such variation to be in the best interest of the Village. (Ord. 01-1591. Passed 06-18-01.)

- (a) No person other than an occupant of the dwelling unit shall be engaged in such occupation;
- (b) The use of the dwelling unit and any accessory buildings for the home occupation shall be clearly incidental and subordinate to the use for residential purposes by the dwelling unit occupants, and not more than twenty-five percent (25%) of floor area of all buildings on the premises shall be used in the conduct of the home occupation; (Ord 97-1398 Passed 06-02-97.)
- (c) No mechanical equipment is to be utilized except that which is necessarily, customarily, or ordinarily used for household or leisure purposes;
- (d) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, meeting the requirements of Article VIII of this ordinance (Ord. 01-1591. Passed 06-18-01.);
- (e) No sales, not clearly incidental to the home occupation are permitted; and
- (f) No traffic shall be generated by such home occupation in greater volume than would normally be expected in residential neighborhoods, and any need for parking generated by the home occupation shall meet the off-street parking requirements of this ordinance, and shall not be located in a required front yard.

Section 706. Bed and Breakfast Establishments

706.1 In addition to the Conditional Use requirements in ARTICLE IX, the following shall apply to Bed and Breakfast Establishments in any "R" District. The Planning Commission may vary these requirements if they determine such variation to be in the best interest of the Village. (Ord. 01-1591. Passed 06-18-01.)

- (a) There shall be no more than five (5) guest rooms per establishment;
- (b) Guest rooms shall have a minimum area of eighty square feet per room for single occupancy, 100 square feet per room for double occupancy, plus forty square feet for each additional room occupant, and there shall be one bathroom per two guest rooms;
- (c) The length of occupancy by any one guest shall not exceed three consecutive weeks; and,
- (d) In the event any exterior changes are made, such changes shall match or be compatible with the existing structure.

Section 707. Performance Requirements for Commercial and Industrial Uses

707.1 Requirements: No proposed use in a "B" or "M" District shall be permitted that will create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. The following performance requirements shall apply to all proposed uses in the "B" and "M" Districts.

- (a) Fire Hazards: Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- (b) Radioactivity or Electrical Disturbance: No activity shall emit dangerous radioactivity at any point or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
- (c) Noise and Vibration: No activity shall emit noise or vibration which is objectionable because of intermittence, beat, frequency or shrillness. Noise or vibration may equal but shall not exceed average street traffic noise or vibration on the nearest street bordering a non-commercial or non-industrial use. Noise or vibration resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.
- (d) Smoke and Air Pollution: No establishment shall be permitted to emit into the air smoke, fly ash, dust, fumes, vapors, gases and other forms of air pollution except as permitted and approved by the Ohio EPA Division of Air Pollution Control.
- (e) Odors: No malodorous gas or matter shall be permitted which is offensive or as to produce a public nuisance or hazard on any adjoining lot or property.
- (f) Glare: No direct or reflected glare shall be permitted which is visible from any property outside an "M" District or from any public street, road or highway.
- (g) Erosion: No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.
- (h) Water Pollution: Pollution of water shall be subject to the requirements and regulations established by the Ohio EPA Division of Water Pollution Control.
- (i) Other hazards: Other hazards not specifically addressed by the performance standards established herein shall be made known to the Zoning Inspector by any establishment proposing to locate in a "B" or "M" district. Regulations for such hazards shall be as determined by the Planning Commission.

707.2 Administration and Enforcement Provisions

- (a) All applications for zoning certificates shall be accompanied by certification from a professional engineer registered in the state of Ohio that the proposed use can meet the performance standards set forth in Section 707.1. The Zoning Inspector may waive all or part of this requirement when it is determined that the proposed use is not relevant to the performance standards.
- (b) The Zoning Inspector shall investigate any reported violation of the performance requirements. If the Zoning Inspector finds that a professional determination of the existence and nature of the violation is necessary, the services of an engineer or qualified professional may be requested. The cost of such services incurred by the Municipality in establishing a violation shall be paid by the violator if such violation is established. If no violation is established, the cost shall be borne by the Municipality.

Section 708. Mineral Extraction, Storage and Processing

708.1 Extraction, storage and processing of minerals of all types shall be permitted only in "S-1," and "M-2" Districts as specified in the Use Regulations of Article IV, the performance requirements of Section 707, and the requirements of this section.

708.2 Mineral extraction, storage or processing shall not be conducted closer than five hundred (500) feet from any "R" District, nor closer than two hundred (200) feet from any structure used for human occupancy in any other district.

708.3 When determined to be necessary for the protection of public safety, the Planning Commission may require fencing to be erected and maintained around the entire site or portions thereof.

708.4 Prior to the issuance of a zoning certificate, the operator of the proposed use shall file with the Zoning Inspector a plan providing the items required by Section 1103 and the following:

- (a) Location map which clearly shows areas to be mined and the location of adjacent properties, roads and natural features.
- (b) The anticipated depth of excavations and the location and probable effect on the existing water table, public utilities, roads and surface drainage.
- (c) A detailed plan for the restoration of the area to be mined which shall include the anticipated future use of the restored land, the proposed final topography indicated by contour lines of no greater interval than five (5) feet, the type and number per acre of trees or shrubs to be planted, and the location of future roads, drives, drainage courses, or other improvements contemplated.

708.5 The operator shall file with the Council a bond payable to the municipality and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The rate, per acre of property to be mined, of the required bond shall be as fixed by ordinance of the Council. The bond shall be released upon written certification of the Zoning Inspector that the restoration is complete and in compliance with the restoration plan.

Section 709. Excavation of Fill for Highway Construction

Excavation of fill for highway construction outside highway rights-of-way shall be permitted only in the "S-1" District only after approval of the Council is granted. The construction contractor shall provide proof that the source of community water supply shall not be adversely affected due to lowering the water table or contaminating the supply before permission for excavation is given in the "S-1" District. The contractor shall also submit a plan and description as to the manner in which public utilities, roads, and surface drainage are to be restored in those instances where such facilities are to be disturbed by the excavation.

Section 710. Automobile Wrecking and Metal Salvaging, Sales and Storage

710.1 The dismantling or wrecking of automobiles or the salvaging of metal materials for the sale or storage of the salvaged parts or material shall be permitted only in an "M-2" District subject to approval of the Council and after permission has been granted by the Board of Zoning Appeals.

710.2 Automobile wrecking and metal salvaging, sales and storage shall be effectively screened on all sides by means of walls, fences or plantings. Walls or fences shall be a minimum of eight (8) feet in height with no advertising thereon. In lieu of such wall or fence, a strip of land no less than fifteen (15) feet in width and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than six (6) feet in height may be substituted. Storage of materials shall not exceed the height of the screening.

Section 711 . Temporary Buildings and Uses.

711.1 General Requirements.

- (a) The Zoning Inspector may approve the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations described by this Zoning Code for the district in which it is located; provided that such use shall be strictly of a temporary nature. Such approval shall be granted in the form of a temporary and revocable permit for not more than 180 days from the date of issuance, subject to conditions as will safeguard the public health, safety, convenience and general welfare. The Zoning inspector may approve one extension

request not to exceed 90 days from a temporary use that is in compliance with the requirements of this section.

- (b) At least seven (7) days before the commencement of a temporary use or installment of a temporary building, an application for a temporary use permit shall be made to the Zoning Inspector, which shall include a map illustrating the location of the property to be used, a description of the proposed use, and a site plan, with sufficient information to determine the setback, parking and sanitary facility requirements for the proposed temporary use. The Zoning Inspector may deny or approve such a permit subject to any restrictions, time limits or conditions he or she finds necessary to safeguard the public welfare.
- (c) The activities allowed by the temporary use permit be located in a manner that does not block, obstruct or restrict the free passage of pedestrians or vehicles in the lawful use of the sidewalks, streets or public places. Neither shall it adversely impact adjacent residential property.
- (d) If the proposed site for a temporary use is not under the legal control of the applicant, a written statement from the property owner giving his permission for such use shall be required before a permit is issued.

711.2 Supplemental Requirements. In addition to the requirements set forth in Section 711.1, additional requirements apply as follows:

- (a) Temporary buildings and construction trailers. Temporary buildings and construction trailers used in conjunction with construction work only may be permitted in any district during the period construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.
- (b) Food Trucks. Food trucks shall be permitted as a temporary use, subject to the following:
 - (1) Definition. For the purposes of this section, "Food Truck" means a licensed, motorized vehicle or mobile food unit which is temporarily stored on a privately-owned lot, publicly-owned lot or public street where food items are sold to the general public.
 - (2) Location on Site. Food trucks may be located anywhere on a site ten (10) feet from a property line or right of way setback provided they do not block access or visibility at driveways or intersections, do not block access to hydrants, utility boxes, building entrances and access ways. The site where a Food truck is operated must be actively used and not a vacant or unimproved lot. No food truck shall be located within 150 feet of a permitted residential use.

- (3) Location on Street. Food trucks may be located in the right of way where on-street parking is permitted. The sales door and entrance shall be located on the curbside. Food trucks shall not be permitted on a residential street.
 - (4) Location in Parks. Food trucks are permitted in public parks with the permission of Village Council.
 - (5) Parking. The applicant must demonstrate there is adequate parking on the property where the food truck is located or there is adequate parking immediately adjacent to the property where the food truck is located to ensure public safety for patrons.
 - (6) Signs. All signs used in connection with the use shall be temporary, and shall be removed when the food truck is not operating.
 - (7) Truck requirements. Food trucks shall be portable, self-contained and motorized. Food trucks located in the public right of way or in public parking areas shall be removed from their location when not in use.
 - (8) Food Safety. Food trucks shall be licensed and fully comply with all applicable laws according to the Tuscarawas Health Department and Ohio Revised Code Chapter 3717, the Ohio Uniform Food Safety Code. Documentation of compliance shall be submitted to the Zoning Inspector prior to issuance of a temporary use permit
 - (9) Waste and Refuse. The food truck operator will be responsible for collecting and removing all refuse and other wastes from the site. Trash receptacles shall be removed at the end of each day.
 - (10) Safety Requirements. Food truck operators shall not shout or call to potential customers, wave flags, signs or other objects; air music or other transmissions that can be heard beyond the immediate vicinity; or do any acts which may be a nuisance or safety distraction to the nearby or traveling public.
 - (11) Hours of Operation. Food trucks shall not operate outside of the hours permitted by the Zoning Inspector and noted on the temporary use permit.
 - (12) Seating. Seating or tables for customers shall not be provided
- (c) The Zoning Inspector may waive all or part of these requirements for food trucks that operate on public property during special events that have been authorized by resolution of the Sugarcreek Village Council.
- (Ord. 16-2163. Passed 04-18-16.)

Section 712. Open Storage and Display of Material and Equipment

712.1 The open storage and display of material and equipment incidental to permitted or conditional uses in "B" or "M" Districts shall be permitted provided the area used for open storage

and display shall be effectively screened from all adjoining properties in any "R" District by means of walls, fences or plantings. Walls or fences shall be a minimum of four (4) feet in height without advertising thereon. In lieu of such wall or fence a strip of land not less than ten (10) feet in width and planted and maintained with an evergreen hedge or dense planting of evergreen shrubs not less than four (4) feet in height at the time of planting may be substituted. 712.2 The temporary open storage of contractor's equipment and material shall be permitted on the site upon which buildings or structures are being erected or installed for the duration of the construction period. Storage of such equipment and material beyond the date of completion of the project shall be subject to a special permit authorized by the Board of Zoning Appeals.

Section 713. Site Plan Review for Commercial and Industrial Developments

713.1 Site plans for the development of commercial and industrial projects which consist of more than one main building on three or more acres which are under unified ownership shall be submitted to the Commission for review and approval prior to the issuance of a zoning certificate. Submission of site plans for the development of commercial and industrial projects shall be submitted to Council for final approval upon within sixty (60) days of the date of submission to the Commission.

713.2 The Planning Commission shall use the following standards when reviewing the site plan:

- (a) Commercial and industrial uses shall be designed to:
 - (1) Shift drive-up windows, loading docks and overhead doors on the opposite side of residential property.
 - (2) Locate parking facilities adjacent to residential property.
 - (3) Locate trash bins, dumpsters and storage areas away from residential property.
 - (4) Locate office portions of a facility nearest to residential property.
- (b) All proposed main buildings shall be of a consistent and coordinated architectural style.
- (c) Required setbacks shall be maintained around the perimeter of the group of main buildings and the boundary of the parcel. No minimum distance between the groups of main buildings is required; however, such intervening space shall allow for adequate circulation and emergency access around each building.
- (d) Points of access or other means of vehicular ingress and egress shall be situated to provide safe and convenient access and to maintain adequate sight distances.

Section 714. Adult Businesses.

714.1 Purposes: The purposes of these regulations on adult businesses are:

- (a) To protect the character of the community by restricting the time, place and manner of adult uses because they can support undesirable and detrimental patterns of activity in their vicinity;
- (b) To acknowledge the economic importance of tourism to the local economy by restricting the proximity of adult businesses to State Routes which serve as the principal routes into the Village;
- (c) To give special consideration to the impact of secondary effects of adult businesses and their potential for damaging the tourism economy which places a special emphasis on the historical religious nature of the community;
- (d) To minimize the impact on both residential and commercial properties by restricting the hours of operation and advertising of adult businesses; and,
- (e) To recognize that although adult businesses are protected under the First Amendment, there is convincing documented evidence that they have a strong and positive relationship to increased crime, a real or perceived decrease in surrounding property values, and present a significant public health risk.

(Ord. 01-1617. Passed 01-07-02.)

714.2 Location: Subject to all other local and state laws, an adult business may be located only in accordance with the following restrictions:

- (a) An adult business may only be located as a conditional use in the "S-1" District.
- (b) No such business shall be located within one thousand (1,000) feet of any State Route. Distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult business is conducted, to the point of intersection of the right of way of the State Route.
- (c) No such business shall be located within one thousand (1,000) feet of any residentially-zoned district or any residentially-used lot, public library, private or public elementary or secondary school, pre-school or day care center, public park or place of worship. Distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult business is conducted, to the nearest property line of the premises of a use
- (d) No such business shall be located within one thousand (1,000) feet of another adult business. Distance shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.(Ord. 01-1617. Passed 01-07-02.)

714.3 Nonconforming Status: An adult business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a residentially-zoned district or any residentially-used lot, public library, private or public elementary or secondary school, public park or place of worship within one thousand (1,000) feet of the adult business. (Ord. 01-1617. Passed 01-07-02.)

714.4 Hours of Operation: No adult business shall be open between the hours of 12:00 a.m. and 8:00 a.m. (Ord. 01-1617. Passed 01-07-02.)

714.5 Signs and Advertising: All signs shall be limited to the premises of the adult business and shall not exceed the height of the main building. Advertising, signs, or any other exhibit depicting adult entertainment activities shall be arranged or screened to prevent public viewing from outside the building or premises. No outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to an adult use is permitted. (Ord. 01-1617. Passed 01-07-02.)

714.6 Limitations: Nothing in this section shall be construed to prohibit or limit the display, sale rental of descriptive, printed, film, or video material or any live performance which, taken as a whole, contains serious literary, artistic, political, medical, educational, or scientific value. (Ord. 01-1617. Passed 01-07-02.)

Section 715. Outdoor Wood Furnaces

715.1 Definitions: As used in this section, terms are defined as follows:

- (a) "Outdoor wood furnace" means any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An outdoor wood furnace may also be referred to as an outdoor wood boiler or outdoor wood-fired hydronic heater.
- (b) "Chimney" means a flue or flues that carry off exhaust from an outdoor wood furnace firebox or burn chamber.
- (c) "EPA OWHH Phase I Program" means the EPA OWHH (Outdoor Wood-fired Hydronic Heater Program) Phase I Program administered by the United States Environmental Protection Agency.
- (d) "EPA OWHH Phase I Program Qualified Model" means an outdoor wood furnace that has been EPA OWHH Phase I Program qualified. The model has met the EPA OWHH Phase I emission level and has the proper qualifying label and hangtag.

- (e) "Existing outdoor wood furnace" means an outdoor wood furnace that was purchased and installed prior to the effective date of this section.
- (f) "Natural wood" means wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
- (g) "New outdoor wood furnace" means an outdoor wood furnace that is first installed, established or constructed after the effective date of this section.

715.2 Requirements

- (a) Any outdoor wood furnace installed and operated within the Village must be an EPA OWHH Phase I Program Qualified Model as defined herein.
- (b) All outdoor wood furnaces, from the effective date of this section, shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this section. In the event of a conflict, the requirements of this chapter shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- (c) No outdoor wood furnace may be installed and/or operated until a permit has been issued by the Village's Zoning Inspector. The owner of the property seeking to install an outdoor wood furnace must fill out an application, present a site plan of the property showing the proposed location where the outdoor wood furnace is to be installed, and pay the permit fee set forth in Section 1104.1 for an accessory building. The owner of any new outdoor wood furnace shall produce the manufacturer's owner's manual or installation instructions to the Zoning Inspector to review prior to installation. The Zoning Inspector shall seek advisement from safety and emergency forces to identify any potential safety issues. The applicant shall sufficiently address all identified safety concerns prior to the issuance of a permit.
- (d) All outdoor wood furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, ANSI or other applicable safety standards.
- (e) Fuel burned in any new or existing outdoor wood furnace shall be only natural untreated wood, wood pellets, corn products, biomass pellets, or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas or propane backup.
- (f) Firewood, brush, logs or any other material intended to be used as fuel shall not be stored in front yards. Storage of such materials shall be permitted only in side or rear yards and under all of the following conditions:
 - (1) The firewood shall be stacked no higher than six feet.
 - (2) The firewood shall be stored at least three feet from the property line and in such a manner as not to constitute a fire hazard.

- (3) Firewood storage areas shall not exceed an amount that can reasonably be burned within a one year period..
- (4) Rotted, diseased, or infested wood shall be properly disposed of immediately after discovery.
- (g) The following fuels are strictly prohibited in new or existing outdoor wood furnaces:
 - (1) Wood that has been painted varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.
 - (2) Rubbish or garbage, including but not limited to food wastes, food packaging, food wraps.
 - (3) Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 - (4) Rubber including tires or other synthetic rubber-like products.
 - (5) Newspaper, cardboard, or any paper with ink or dye products.
 - (6) Any other items not specifically allowed by the manufacturer or this provision.

715.3 Location and Setback Requirements.

- (a) An outdoor wood furnace may only be installed in the rear yard of the lot for the structure being serviced. Outdoor wood furnaces shall not be permitted in a side yard or a front yard.
- (b) The outdoor wood furnace shall be located at least twenty five (25) feet from the property line.
- (c) The outdoor wood furnace shall be located on the property in compliance with manufacturer's recommendations and any other requirements for clearance to combustible materials.

715.4 Chimney Requirements

- (a) The outdoor wood furnace chimney shall extend either ten feet above the ground surface or at least two feet above the peak of any residence or structure not served by the outdoor wood furnace located within 100 feet of such outdoor wood furnace, whichever is greater.
- (b) Chimneys shall be carefully constructed and maintained at all times in a safe condition. Whenever any such apparatus is found to be defective or in such a condition as is liable to present a hazard, the Zoning Inspector or Fire Chief shall order it to be immediately repaired or order it removed at the owner's expense.

- (c) All chimneys shall be securely stayed against wind pressures. Chimneys may be designed to be self- supporting and resist all wind stresses without guys, or they may be designed to be laterally stayed with guys or braces. It is the responsibility of the owner to supply sufficient documentation of adequate installation that is acceptable to the Zoning Inspector.

715.5 Ongoing Operation

If any Outdoor Wood Furnace is, through the course of proper investigation by local authorities, creating a verifiable nuisance, as defined by local or state law, the following steps may be taken:

- (a) Modifications made by the owner to the unit to eliminate the nuisance such as extending the chimney, or relocating the Outdoor Wood Furnace or both. Modifications to the unit itself shall be limited to factory approved accessories only.
- (b) The owner shall cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance.

(Ord. 14-2101. Passed 02-18-14.)

Section 716. Demolition.

716.1 Permit Required. No person shall demolish a building or other structure without obtaining a permit and paying the required fee.

716.2 Application Requirements. Application for a demolition permit shall be made to the Zoning Inspector and such permit may be issued only to the person, firm or corporation who provides documentation of their legal authority to conduct such demolition. Such application shall be in writing and shall contain the following:

- (a) Name and address of applicant.
- (b) Name and address of owner of the building.
- (c) Estimated dates for commencement and completion of demolition.
- (d) Method of demolition to be used.
- (e) Proof of termination of all utility connections in accordance with approved rules and practices of each utility.
- (f) Measures taken to protect adjacent properties and pedestrians during demolition.
- (g) Solid waste management plan specifying the intended disposition of rubble and building materials, including any underground storage tanks or abandoned septic tanks.

- (h) A site restoration plan that includes excavations filled to existing grades, topsoil of sufficient capacity to cover the filled material and support ground vegetation, and drainage directed in a manner that does not negatively impact surrounding properties.
- (i) A description of the anticipated re-use of the property.
- (j) A bond or cash deposit in an amount determined by the Village but not exceeding of ten thousand dollars (\$10,000) that will guarantee satisfactory completion of the demolition.

The Zoning Inspector, under advisement of safety and emergency forces, may waive or modify the above requirements provided that such waiver or modification does not pose a hazard to the general public's health, safety or welfare.

716.3 Time Limits. A demolition permit shall be valid for thirty calendar days. The Zoning Inspector may extend this period, in writing, for an additional thirty days upon request by the permit holder, provided that substantial progress toward razing the building has been made.

716.4 Completion. Upon final inspection and documentation of compliance with this section, the Zoning Inspector shall release any bond or cash deposit to the applicant. If the work required is not satisfactorily completed, the Zoning Inspector is authorized to employ the necessary labor and equipment to complete the work and deduct the cost from the bond or cash deposit. Where there is no bond or cash deposit, then the applicant shall be held accountable for any cost incurred to finish the work required.

(Ord. 14-2101. Passed 02-18-14.)

Section 717. Personal Gardens; Keeping of Small Animals.

Personal gardens and keeping of small animals shall be allowed as accessory uses in any residential district where a dwelling is the main use of the lot. It is not the intent of this section to regulate those agricultural activities that are permitted or conditional main uses in any zoning district. The following conditions and requirements shall apply to personal gardens and keeping of small animals:

717.1 General Requirements.

- (a) For the purposes of this section, personal gardens shall be defined as "the small scale cultivation of food and non-food natural products'.
- (b) For the purposes of this section, small animals shall include chickens, ducks, rabbits, bees and similar animals. Roosters, geese, turkeys, birds of prey, large farm animals or livestock are not considered small animals and are prohibited

717.2 Personal Gardens.

- (a) Personal gardens shall not require a Zoning Certificate; however, any associated greenhouse, hoop house, cold-frame, or similar structure greater than six (6) feet in height shall require a Zoning Certificate.
- (b) Any greenhouse or similar permanent structure shall count toward the maximum lot coverage allowed for accessory uses in residential districts. Hoop houses, cold-frames, or similar non-permanent structures shall not count toward the maximum lot coverage requirement.
- (c) All activities shall be conducted in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.
- (d) All equipment, tools, plant supports, containers, cages, and temporary fencing shall be stored indoors when not in use.

717.3 Keeping of Small Animals.

- (a) A Zoning Certificate is required for keeping of small animals.
- (b) A maximum of six (6) small animals and two (2) bee hives may be kept on the property.
- (c) Only female chickens or ducks are permitted.
- (d) Small animals shall be kept in an enclosure or fenced area, such as a cage, coop hutch or run at all times.
- (e) Hives, cages, coops hutches runs and other animal enclosures shall be:
 - (1) located in the rear yard only.
 - (2) located a minimum of fifteen (15) feet away from the main building and all adjacent lot lines.
 - (3) kept in good repair, maintained in a clean and in a sanitary condition, and free of vermin, obnoxious smells and substances. The facility will not create a nuisance or disturb neighboring residents due to noise, odor, damage or threats to public health.
 - (4) designed to ensure that the health and well-being of the animal is not endangered by the manner of keeping or confinement. Access by dogs or other predators shall be prevented.
- (f) Animal waste shall not accumulate on the premises so as to cause a nuisance.
- (g) Chickens must be kept in coops from dusk to dawn.
- (h) Slaughtering of animals on the premises is prohibited.
- (i) All bee colonies shall be registered with the Ohio Department of Agriculture with evidence of same provided to the Village prior to the issuance of a Zoning Certificate.

717.2 Administration.

- (a) Zoning Certificates issued for the keeping of small animals shall not be assigned or transferred to other parties.
- (b) If the Zoning Inspector cannot make a clear determination that an animal proposed to be kept on the premises is similar to the small animals permitted by this section, or if the applicant proposes keeping large farm animals or livestock, then the application shall be referred to the Planning Commission for consideration. In considering an application, the Planning Commission may approve, deny or modify the application based on the following:
 - (1) The size of the parcel where the use is proposed.
 - (2) The proximity to nearby properties.
 - (3) The character of the surrounding neighborhood.
 - (4) The extent to which the intent of this section is preserved.
- (c) The Zoning Inspector shall revoke any approvals for failure to adhere to the requirements of this section. Upon such revocation immediate removal of animals from the premises is required.

(Ord. 16-2163. Passed 04-18-16.)

ARTICLE VIII
SIGNS AND OUTDOOR ADVERTISING STRUCTURES

Section 800. Signs and Outdoor Advertising Structures

800.1 No sign shall be constructed, erected, moved, enlarged, illuminated, substantially altered or permitted in any district except as hereinafter provided.

800.2 Purposes: The purposes of these sign regulations are:

- (a) To effectively communicate information while maintaining pedestrian and traffic safety;
- (b) To protect and enhance the unique historic and aesthetic character of the community by encouraging signs to be compatible with their surroundings;
- (c) To maintain the community's ability to attract sources of economic development and growth;
- (d) To minimize the possible adverse effect of signs on adjoining properties; and,
- (e) To fairly and consistently enforce the sign regulations.

Section 801. Definitions

In addition to the definitions contained in Article III, the words and phrases defined in this Section shall have the following meaning unless the context indicates otherwise:

- (a) **Abandoned Sign:** A sign which identifies or advertises a business, service, commodity, attraction or other enterprise or activity that is no longer operating or being offered, or, where no legal owner can be found, shall be considered abandoned.
- (b) **Announcement or Professional Sign:** A sign associated with Home Occupations and Professional Activities.
- (c) **Billboard Sign:** A free-standing sign of larger dimensions primarily designed to convey information to vehicular traffic traveling on an express way, interstate highway, or limited access highway.
- (d) **Bulletin Board Sign:** A sign erected by a charitable, educational or religious institution for purposes of providing general information or announcing events which are held on the premises.
- (e) **Business Information Sign:** A sign erected as a public service, authorized through a special approval process that provides directions or information concerning businesses, facilities, and community groups.
- (f) **Canopy Sign:** A sign that is displayed and affixed flat on the surface of a canopy and does not extend beyond the limits of the canopy.

- (g) Casual Sales Sign: A sign advertising a "garage sale", "yard sale", "attic sale", "rummage sale", "flea market sale", or other similar title.
- (h) Exempt Sign: A sign for which a permit is not required.
- (i) Free-standing Sign: A sign which is attached to or a part of a self-supporting structure.
- (j) Illegal sign: A sign which does not meet the requirements of this ordinance and which has not received legal nonconforming status.
- (k) Nonconforming Sign: A sign that does not conform to the requirements of this ordinance.
- (l) Projecting Sign: A sign attached at an angle or perpendicularly to a wall of a building or structure.
- (m) Roof Sign: A sign erected or constructed as an integral part of a normal roof structure.
- (n) Subdivision or Multi-family Development Signs: A sign located at the entrance of a recognized residential development for identification purposes.
- (o) Temporary Sign: A sign, or other advertising device, with or without a structural frame, intended for a limited period of display.
- (p) Temporary Construction Sign: A temporary sign placed upon property for the purpose of advertising the sale or development of said property, and, to identify the names of developers, contractors, engineers, architects, and financial institutions of the site being developed or improved.
- (q) Wall Sign: A sign attached parallel to, or painted on the wall or window surface, that is confined within the limits of an outside wall and displays only one sign surface.

Section 802. Prohibited Signs

- (a) Signs Imitating Warning Signals: Unless specifically permitted as an Electronic Message Center Sign in accordance with Section 806.3, no sign shall display intermittent lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, or rescue vehicles, nor shall any sign use the words "stop", "danger", or any other word, phrase, symbol, or character in a manner that might mislead or confuse an automobile or other vehicle driver. (Ord. 16-2163. Passed 04-18-16.)
- (b) Signs Within Street or Highway Rights-Of-Way: Except as herein provided, no sign shall be placed in any public right-of-way except publicly-authorized signs, including but not limited to traffic control signs and directional signs.

Section 803. Exempt Signs

- (a) Public notices, traffic control signs and other official signs and notices.
- (b) Signs not exceeding twelve (12) square feet in area, and advertising the sale, rental, lease or auction of the premises on which the sign is located.
- (c) Non-illuminated signs not exceeding a total of four (4) square feet in area that are customarily associated with residential use and that are not of a commercial nature, including, but not limited to:
 - (1) Signs giving property identification names or numbers or names of occupants;
 - (2) Signs on mailboxes or newspaper tubes;
 - (3) Signs posted on private property related to private parking or warning the public against trespassing or danger from animals or other noncommercial message.
- (d) Casual sales signs when associated with a lawfully permitted sale and in conformance with the following:
 - (1) Signs shall be posted for a maximum of four (4) days per event;
 - (2) Signs shall not be posted within a public right of way;
 - (3) Signs shall not exceed eight (8) square feet in area;
 - (4) Signs posted off-premises from the sale location are permitted with the permission of the property owner or resident of the property where such sign is to be placed and having a limit of one (1) sign per property up to a maximum of four (4) separate properties.
- (e) Integral decorative or architectural features of buildings or works of art.
- (f) Incidental signs directing and guiding traffic on private property that do not exceed four square feet and contain no advertising matter. Not more than one (1) such sign shall be erected in each two hundred (200) feet of street frontage.
- (g) Business Information Signs may be erected on public or private property subject to the following special approval:
 - (1) A Master Signage Plan shall be submitted by the applicant to the Zoning Inspector who shall review the application for completeness. Such Plan shall contain the following:
 - A. A plot plan of the proposed site at such scale as necessary for adequate review;
 - B. Location of buildings, parking lots, driveways, existing signs and landscaped areas on and adjacent to the proposed site;
 - C. The location of the proposed signage and drawings to scale which shall indicate the maximum sign area, height, color scheme, lettering or graphic style, lighting, and materials;
 - D. A plan for long term maintenance of all proposed signs.

- (2) The Zoning Inspector shall transmit a complete application to the Planning Commission for consideration at the next regularly scheduled meeting which occurs seven (7) days or more after official acceptance of the application. The Commission shall recommend to the Village Council approval or disapproval of the Master Signage Plan.
- (3) Within thirty (30) days following the submission of a recommendation by the Planning Commission, the Village Council shall approve or disapprove the Master Signage Plan. As part of the review process, Council may approve all or part of the plan, require modifications, request additional information or seek additional input from the Planning Commission. All parties concerned may agree to extensions of the time limitations in order to permit Plan revisions or the continuation of negotiations.
- (4) Business Information Signs are subject to continuing review and Council may order their removal should they be determined to no longer be in the public interest.

Section 804. Regulations Applying to Specific Types of Signs.

- (a) Announcement or professional signs for home occupations and professional activities where permitted shall not exceed one (1) sign no more than three (3) square feet in area in an "R" District and no more than four (4) square feet in other districts. Such sign, when located in an "R-1" District shall be limited to a wall sign.
- (b) Bulletin boards and signs for a church, school, community or other public or semipublic institutional building shall be permitted provided the area for such bulletin board or sign shall not exceed fifteen (15) square feet in area. Such signs may be erected not less than ten (10) feet from the established right-of-way line of any street or highway.
- (c) Wall signs shall be attached directly to a wall, or painted on the wall or window surface, with the face of the sign parallel to the building wall.
- (d) Projecting signs shall not project further than four (4) feet measured from the face of the main wall of the building provided that no part of the projecting sign shall extend nearer than one (1) foot to a curb line. The lowest point of a projecting sign or any part thereof shall be at least eight (8) feet above a sidewalk or other walkway and at least seventeen (17) feet above a driveway or road. If any portion of the sign projects above a public sidewalk or right-of-way, the owner shall maintain in force liability insurance in such form and such amount as the municipality may reasonably determine.

- (e) Roof signs may be erected provided that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.
- (f) Canopy signs that are a part of an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area, are permitted. The lowest point of a canopy shall be at least eight (8) feet above a sidewalk or other walkway and at least seventeen (17) feet above a driveway or road. If any portion of the canopy projects above a public sidewalk or right-of-way, the owner shall maintain in force liability insurance in such form and such amount as the municipality may reasonably determine.
- (g) Free-standing signs not over thirty (30) feet in height, having a maximum total sign area of one hundred (100) square feet and located not closer than ten (10) feet to any street right-of-way line and not closer than twenty (20) feet to any residential lot line may be erected to serve a business or a group of business establishments. The supporting structure of a free-standing sign shall be set firmly in or below the ground. There shall be only one free-standing sign for each building, regardless of the number of businesses conducted in said building. In the case of a lot occupied or intended to be occupied by a group of businesses, the sign permit shall be issued in the name of the lot owner or agent rather than in the name of individual businesses. The municipality shall not be responsible for enforcing the provisions of any allocation formula, lease or other private restriction.
- (h) Billboard signs in any business or industrial use district located adjacent to the interchange of any express way, interstate highway or limited access highway may be substituted for a freestanding sign. Any such signs shall conform to the following:
 - (1) No billboard shall be located within one thousand (1,000) feet of another billboard abutting either side of the same street or highway;
 - (2) The height of such signs shall not exceed fifty (50) feet;
 - (3) The maximum area of any face of such signs shall not exceed two hundred (200) square feet;
 - (4) Such signs shall be nonmovable; (Ord. 16-2163. Passed 04-18-16.)
 - (5) A billboard with a sign area of one hundred (100) square feet or less shall be located not closer than ten (10) feet to any street right-of-way line. For every square foot by which such sign exceeds one hundred (100) square feet, such setback shall be increased by one-half (1/2) foot;
 - (6) At intersection of any state or federal highway with a major or secondary street, the setback of any billboard shall not be less than one hundred (100) feet from the established right-of-way of each highway or street;

- (7) No billboard shall be permitted which faces the front or side lot line of any lot in any "R" District within one hundred (100) feet of such lot line, or which faces any public parkway, public square or entrances to any public park, public or parochial school, library, church, or similar institution within three hundred (300) feet thereof;
- (8) Billboards where permitted shall be erected or placed in conformity with the side and rear yard requirements of the district in which located except no sign or advertising structure shall be erected or placed closer than within fifty (50) feet to a side or rear lot line in any "R" District.
- (i) Temporary signs not exceeding in the aggregate fifty (50) square feet, which are related to home improvement or announcing special events may be erected for a period of thirty (30) days per calendar year.
- (j) Temporary Construction signs are permitted provided that:
 - (1) The sign shall not be illuminated;
 - (2) The sign shall advertise the sale or development of a recorded lot subdivision or the erection of a building;
 - (3) The sign shall be erected only upon the property for sale or being developed;
 - (4) The sign shall not be in excess of fifty (50) square feet;
 - (5) Not more than one (1) such sign shall be placed along one road frontage of any property in single and separate ownership and not more than two (2) such signs may be permitted in any single development;
 - (6) A permit for the erection, construction or alteration of said sign shall expire within one (1) year.
- (k) Subdivision and Multi-family Development signs may be erected at any entrance to a residential subdivision or multi-family development, provided that there may be not more than two (2) signs identifying such subdivision or development. The total surface area of all such signs located at a single entrance may not exceed thirty-two (32) square feet.

Section 805. Permitted Signs by Type and Zoning District

Signs are permitted in accordance with all requirements of this Article and the table set forth below. Signs not exempt or specifically permitted in a particular district are expressly prohibited. (Ord. 01-1591. Passed 06-18-01.)

Sign Type	Residential Districts					Business Districts			Industrial Districts	
	S-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2
Announcement		P	P	P	P	P	P	P		
Bulletin Board	P	P	P	P	P	P	P	P		
Wall	P	P	P	P	P	P	P	P	P	P
Projecting						P	P	P		
Roof						P	P	P		
Canopy						P	P	P	P	P
Free-standing	P					P	P	P	P	P
Billboard							P		P	P
Temporary	P	P	P	P	P	P	P	P	P	P
Temporary Construction	P	P	P	P	P	P	P	P	P	P
Subdivision		P	P	P	P					

P = Permitted (Ord. 01-1591. Passed 06-18-01.)

Section 806. General Provisions

806.1 Computation of Maximum Allowable Sign Area: The area of all permanent advertising signs for any single business enterprise may have an area equivalent to three (3) square feet of sign area for each lineal foot of width of a building, or part of a building, occupied by such enterprise, but shall not exceed a maximum area of two hundred (200) square feet. For the purposes of this section, width shall be measured along the building face nearest parallel to the street line, but not including an alley. In the case of a corner lot, either street frontage may be used in determining maximum area of the sign. A building with frontage on both a street and an alley shall not be considered a corner lot. In the case of a building occupied or intended to be occupied by a group of businesses, the sign permit shall be issued in the name of the building owner or agent rather than in the name of individual businesses. The municipality shall not be responsible for enforcing the provisions of any allocation formula, lease or other private restriction. (Ord. 01-1591. Passed 06-18-01.)

806.2 Determination of Sign Surface Area:

- (a) Sign area shall not include foundations, supports or a base which contains no sign related elements.
- (b) The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet surrounding the sign face.
- (c) When a sign is on a base material, such as a wood board or plexiglass panel, and attached without a frame, the sign area shall be the dimensions of the base material.
- (d) In computing the area of free-standing or projecting signs, all faces on which advertising is displayed are considered sign area.
- (e) When signs consist of individual elements attached or painted on a wall, window or canopy, the sign area is determined by a rectangle drawn around all the elements.

806.3 Illumination: The following provisions shall be observed in the illumination of signs and advertising structures:

- (a) All signs and advertising structures, except as otherwise restricted, may be illuminated internally or by reflected light provided the source of light is not directly visible and is so arranged as to reflect away from the adjoining premises and provided that such illumination shall not be so placed as to cause confusion or a hazard to traffic or conflict with traffic control signs or lights.
- (b) No illumination involving movement or causing the illusion of movement by reason of the lighting arrangement or other devices shall be permitted except Electronic Message Centers (EMC) as regulated herein.

- (c) Electronic Message Centers are defined as any sign or portion of a sign that uses changing lights to form a sign message or messages in words, symbols, figures or images wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes and are subject to the following regulations:
- (1) The EMC shall be a Bulletin Board, Wall Sign, Free-standing Sign or Billboard.
 - (2) The EMC portion of a Bulletin Board, Wall Sign, or Free-standing Sign shall not exceed thirty percent (30%) of any one allowable sign on the premises. The entire sign area of a Billboard may consist of a single EMC.
 - (3) Displayed messages may change by dissolving or fading no more than one time every eight (8) seconds.
 - (4) Changes must be made within two (2) seconds and the display must return to constant illumination.
 - (5) Movement including animation, flashing and scrolling beyond the two (2) second change is prohibited.
 - (6) Use of intermittent or full-motion video elements is prohibited at all times including during the two (2) second change period.
 - (7) No more than one (1) EMC shall be permitted on any lot of record. A freestanding sign with more than one sign faces shall be considered one sign when only one face is visible to the traveling public at any given time.
 - (8) All EMC's shall have an automatic default setting to a blank, non-illuminated screen in case of malfunction.
 - (9) EMC's shall be designed and operated with automatic dimming features that adjust illumination from daylight to night time maximums and provide the owner/operator of the EMC the ability to reduce the illumination and/or brightness to adjust to background and ambient light conditions.
 - (10) EMC's located within one-hundred (100) feet of a residential lot line must be turned off between the hours of 10:00pm and 6:00am.
 - (11) The Zoning Inspector is authorized to approve minor modifications to the technical requirements of this section to allow for advancements in technology but not for any change in the allowable number, size, and setback requirements.
- (d) The provisions of this section shall apply to exterior signs and any interior signs that are designed or placed to show through windows or doors of structures.
- (Ord. 16-2163. Passed 04-18-16.)

806.4 Visibility: No sign shall be erected which obstructs traffic visibility at street or highway intersections.

806.5 Abandoned Signs: In the event a business ceases operation for a period of time in excess of sixty (60) days, any associated signs shall be considered abandoned and subsequently removed; however, this requirement shall not apply when there is evidence that a new business will be in operation on the premises within ninety (90) days. For the purpose of this Section removal of the sign shall mean the sign face and any associated supporting structures, or, the painting over of any wall sign in such a manner to completely cover the sign and restore the wall appearance to match the existing facade.

806.6 Nonconforming Signs

- (a) Signs lawfully erected but made nonconforming by adoption of this ordinance or amendments thereto, may be maintained and repaired to ensure safe and attractive conditions.
- (b) Nonconforming signs shall not be otherwise altered or moved unless made to comply with the regulations of this Section. Further, any sign or parts thereof which is removed or requires repairs which exceed sixty percent (60%) of its reproduction value, shall not be rebuilt or relocated unless made to comply with all regulations of this Section.
- (c) The message of a nonconforming sign may be changed provided that such a change does not increase the nonconformity.

Section 807. Permits and Fees

807.1 A separate permit shall be required for the erection or substantial alteration of signs regulated in this Ordinance. Repainting or changing the message of a sign shall not, in and of itself, be considered a substantial alteration.

807.2 Each application for a sign permit shall be accompanied by a drawing showing the design proposed, the size, character and color of letters, lines and symbols, method of illumination; the exact location of the sign in relation to the building and property, the details and specifications for construction. A fee, as stated in Section 1104, shall accompany each application for a sign permit.

ARTICLE IX
CONDITIONAL USES

Section 900. Conditional Use Approval Required: Conditional use approval shall be required for certain types of uses, so classified because of their uncommon or unique characteristics, infrequency of occurrence, large area requirements or special nature relative to size, design, location and mode of operation that each use be considered individually. Such use shall not be permitted by right. The conditional uses enumerated in Article IV may be permitted under specific conditions in the district enumerated, only if they conform to standards provided in this Article.

Section 901. Consideration by Planning Commission: Any person, firm or corporation owning or leasing land who seeks conditional use approval, shall be placed on the agenda of a regular or special meeting of the Planning Commission. At the meeting the Commission may review such drawings, plans or statements so as to fully describe and set forth all elements of the proposed use. Such data shall describe in detail the proposed use to the extent that the Planning Commission can have no doubt as to the use of the proposed use, and can determine the effect upon the surrounding properties, and can evaluate the effect of the proposed use upon traffic, fire hazards, public utilities and the public health, safety and welfare of the Village of Sugarcreek.

Section 902. Standards for Evaluating Conditional Uses: The Planning Commission 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:

- (a) will be in harmony with the existing or intended character of the neighborhood and that such use will not change the essential character of the area;
- (b) will not adversely affect the use of the adjacent property;
- (c) will not adversely affect the health, safety, or welfare of persons residing or working in the neighborhood;
- (d) will be served adequately by public facilities and services such as but not limited to highways, roads, police and fire protection, drainage facilities, water, sewer or schools;
- (e) will be in accordance with the general or specific objectives, and the purpose and intent of the Zoning Ordinance.

The Commission may request additional information as it deems necessary to review a request.

902.1 Standards for Keeping of Horses. Horses may be kept for noncommercial purposes in residential zones provided that, in addition to the requirements for all conditional uses:

- (a) There shall not be more than one horse per two acres of land. However, if the Planning Commission determines that no detriment to neighboring properties will result, it may reduce the land area requirement to no less than 5,000 square feet per horse for horses that are kept as a primary form of transportation.
- (b) No person shall keep a horse on any lot within the Village unless a fenced pasture and a stable to securely confine such animal are constructed on such lot.
- (c) All stables, yards and pastures where horses are kept shall be maintained in a sanitary condition and shall be kept clean and in good repair so as to prevent the breeding of flies and the omission of deleterious or offensive odors.
- (d) Manure shall not accumulate on the premises so as to cause a nuisance.
- (e) Conditional Use permits shall not be transferable to another applicant.

(Ord. 14-2101. Passed 02-18-14.)

Section 903. Action by the Planning Commission: If after review of the information available the Commission finds that in its opinion a request does not meet the above criteria, the request shall be denied. In granting any conditional use permit, the Planning Commission may impose such conditions in connection therewith as it may deem necessary to protect the public welfare, preserve the purpose and intent of this chapter, and protect the character of the neighboring properties. Such conditions may include, but shall not be limited to the regulation of:

- (a) setbacks
- (b) screening and buffers
- (c) noise
- (d) hours of operation
- (e) access and traffic
- (f) glare
- (g) vibration
- (h) odors
- (i) dust
- (j) smoke
- (k) hazardous materials
- (l) refuse matter or water-carried waste

Section 904. Terms of Approval

904.1 If a Conditional use approved by the Commission is sold leased or transferred the successor or assigns shall be bound by the same requirements as the original applicant. If a successor or assign alters the use the Commission shall review the imposed conditions and may reaffirm, modify or delete said conditions.

904.2 Conditional use approval shall become null and void if within six (6) months of the date of issuance the property owner or agent does not apply for zoning and/or building permits or if the use shall cease for a period of one year after it had been established.

ARTICLE X
NONCONFORMING USES AND STRUCTURES

Section 1000. Nonconforming Uses.

1000.1 General Requirements:

- (a) Any lawful uses of buildings or land existing at the effective date of this Ordinance may be continued, even though such use does not conform to the provisions hereof.
- (b) Whenever the use of a building or land becomes nonconforming through a change in the amended zoning ordinance or in the district boundaries, such use may be continued.
- (c) It is not the intention herein to classify as nonconforming a use or building allowed in a district as a conditional use under the regulations of this Ordinance.
- (d) Any building arranged, intended or designed for a nonconforming use, the lawful construction of which has been started at the time of the passage of this Ordinance but not completed, may be completed and put into such nonconforming use, provided it is done within one (1) year after this Ordinance takes effect.
- (e) A nonconforming structure, or, a structure which houses a nonconforming use which has been damaged by fire, explosion, act of God or the public enemy to the extent of sixty (60) percent or more of its reproduction value at the time of damage shall not be restored except in conformity with the regulations of the district in which it is located. When damaged by less than sixty (60) percent of its reproduction value, a nonconforming use may be repaired or reconstructed, and used as before the time of damage. Such repairs or reconstruction shall commence within six (6) months of the date of such damage, provided that public health, safety and welfare are not jeopardized. The Zoning Inspector may require the property owner to remedy any public nuisance or safety hazard resulting from the damage to the structure. Such remedies shall be subject to the review and approval of the Fire and Police Departments who shall enforce all provisions of the Ohio Revised Code relative to public health, safety and welfare. In the event that the owner and the Municipality do not concur on the reproduction value, a determination of reproduction value shall be made by three (3) practicing building construction contractors, one to be appointed by the owner, one to be appointed by the Municipality, and the third selected by the mutual consent of the two parties.

1000.2 Nonconforming Uses. A use of a building existing lawfully at the time of the effective date of this Ordinance, but which does not conform to the use regulations of the district in which it is located, may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) The nonconforming use of a building may be extended throughout those existing parts of the building which were arranged or designed for such use, provided, however, that no nonconforming use shall be extended to displace a conforming use;
- (b) No such nonconforming 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;
- (c) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
- (d) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use;
- (e) When any nonconforming use is replaced by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed;
- (f) A nonconforming use which is discontinued for a period of one (1) years shall not again be used except in conformity with the regulations of the district in which it is located.
- (g) No nonconforming use shall be changed to another nonconforming use.

1000.3 Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on size, height, yards, setbacks, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, provided:

- (a) No nonconforming building or structure shall be moved, extended, enlarged, or altered in a way which increases its nonconformity, but any such structure may be altered to decrease its nonconformity.
- (b) If a nonconforming structure becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

- (c) Nothing in this Article shall prevent the reconstructing, repairing or rebuilding of a nonconforming building, structure or part thereof rendered necessary by wear and tear, deterioration or depreciation, provided that the cost of such work done in any period of twelve (12) consecutive months does not exceed twenty (20) percent of the replacement value of such building or structure at the time such work is done.

ARTICLE XI ENFORCEMENT

Section 1100. Zoning Inspector.

1100.1 It shall be the duty of the Zoning Inspector, who shall be appointed by the Council, to enforce this Ordinance. It shall also be the duty of all officials and employees of the municipality to assist the Zoning Inspector by reporting to the Inspector or his designee upon new construction, reconstruction, land uses or upon seeming violations. The Zoning Inspector shall make no change in this Ordinance nor vary the terms of this Ordinance in carrying out the duties of the position of Zoning Inspector.

1100.2 Appeal from the decision of the Zoning Inspector may be made to the Board of Zoning Appeals, as provided in Article XII.

Section 1101. Zoning Certificates.

1101.1 It shall be unlawful for an owner to use or to permit the use of any structure, building or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a Zoning Certificate shall have been issued by the Zoning Inspector. It shall be the duty of the Zoning Inspector to issue a certificate, provided he is satisfied that the structure, building or premises and the proposed use thereof conform with all the requirements of this Ordinance. No permit for excavation, construction, or reconstruction shall be issued by the Zoning Inspector unless the plans, specifications and the intended use conform to the provisions of this Ordinance. No permit is required for alterations and repairs which do not affect basic structural elements and do not significantly alter exterior appearance. (Ord. 03-1681. Passed 08-04-03.)

1101.2 Upon written request from the owner or tenant, the Zoning Inspector shall issue a Zoning Certificate for any building or premises existing at the time of enactment of this Ordinance certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this Ordinance. No charge shall be made for issuing a Zoning Certificate in accordance with this paragraph.

Section 1102 . Conditions under which Certificates Are Required. A Zoning Certificate shall be required for any of the following:

- (a) Construction, structural alteration or demolition of any building, including accessory buildings. (Ord. 14-2101. Passed 02-18-14.)
- (b) Change in use of an existing building or accessory building to a use of a different classification.

- (c) Occupancy and use of vacant land, including the excavation or grading of land. (Ord. 03-1681. Passed 08-04-03.)
- (d) Change in the use of land to a use of a different classification.
- (e) Any change in the use of a nonconforming use.
- (f) Construction of any exterior concrete, asphalt or brick surface for building pads, driveways, sidewalks, or patios. (Ord. 14-2128. Passed 01-05-15.)

Section 1103. Application and Issuance of Zoning Certificates.

1103.1 The Zoning Inspector shall not issue a Zoning Certificate for any application requiring site plan review by the Planning Commission for commercial and industrial development projects as set forth in Article VII, Section 713, until the proposed site plan has been approved by the Commission and any necessary zone changes are adopted by the Council. Such Zoning Certificate shall be issued within seven (7) working days after the necessary approvals have been granted. (Ord. 01-1591. Passed 06-18-01.)

1103.2 Written application for a Zoning Certificate shall be made to the Zoning Inspector. If the proposed use is in conformity with the provisions of this Ordinance, and site plan review is not required, the certificate shall be issued within seven (7) working days after the completed application for same has been made. If the proposed use is not in conformity with the provisions of this ordinance, the Zoning Inspector shall notify the applicant in writing within seven (7) working days of the refusal and the reasons for such refusal. The Zoning Inspector shall mark the plans and copies either as approved or disapproved and attested to same by his signature on such plans and copies. One copy of the plans shall then be returned to the applicant. Once issued, A Zoning Certificate shall expire within six (6) months if the work authorized by the certificate has not commenced and within twelve (12) months if the work authorized by the certificate has not been completed. These time limits may be extended by the Zoning Inspector in the event of a change of circumstances and for good cause shown. (Ord. 03-1681. Passed 08-04-03.)

1103.3 Zoning Certificates are issued on the basis of plans and specifications submitted to and approved by the Zoning Inspector. Every application for a Zoning Certificate shall be accompanied by a plot plan in duplicate and such other plans as may be necessary to show the location and type of buildings to be erected or alterations to be made. Where construction or physical improvement of the land is involved, the lot and location of the buildings to be erected thereon shall be staked out on the ground before construction is started, and all dimensions shown on filed plans shall be based on an actual survey. At all times during such construction, each owner or agent shall provide for the prevention of any public nuisance or safety hazard on site including

but not limited to, securing exposed foundations and areas of excavation, and, prompt removal of debris. (Ord. 97-1417. Passed 11-03-97.)

- (a) Each plan shall show:
 - (1) The street providing access to the lot and the exact location of the lot in relation to the nearest cross street.
 - (2) The name of the concerned lot plan, if any, and the lot numbers of the concerned and abutting properties.
 - (3) The actual dimensions of the lot, the yard and other open space dimensions thereof, and the location, size and current use of any existing structure thereon.
 - (4) The location, height, and size of the proposed structure and/or the proposed enlargement of the existing structure.
 - (5) The existing and intended use of each building or structure or part thereof.
 - (6) Locations, widths and names of existing streets, railroad rights-of-way, easements, parks, permanent buildings and corporation lines.
 - (7) Existing sewers, water lines, culverts and other underground structures, and power transmission poles and lines, within and adjacent to the site.
- (b) Any other information which in the judgment of the Zoning Inspector may be necessary to provide for the enforcement of this Ordinance shall be required and may include:
 - (1) Location and sizes of all proposed easements, municipal utilities and improvements required.
 - (2) Statistical data on all relevant characteristics of the plans including the number and size of dwelling units of each type for multifamily dwellings, and the total gross and net acreage involved.
 - (3) Vehicular traffic and pedestrian circulation features within and without the site.
 - (4) The location and dimensions of all off-street parking areas, including entrance driveways, maneuvering lanes, service lanes and other service areas within the development planned for the site.
 - (5) The location, dimensions and proposed uses of all on-site recreation areas.
 - (6) Locational maps indicating the relationship of the sites to the surrounding land areas.
 - (7) Fire lanes shall be indicated on the Site Plan and be as approved by the Fire Chief.
 - (8) Provisions for refuse disposal and/or removal shall be indicated on the site plan.
 - (9) The landscape details shall include the location, height, number and type of plant material to be installed on the site. It shall also include the location, type and maintenance provisions for any and all required buffers.
 - (10) A survey of the property if necessary to establish precise boundaries. (Ord. 01-

1591. Passed 06-18-01.)

- (c) The Zoning Inspector may waive all or part of subsection (a) or (b) above when, in his opinion, such detail is not required.
- (d) All required improvements shown on the site plans as approved shall be constructed.
- (e) A Site Plan shall not be approved for any location which is on an unimproved street or where utilities are not available unless such street improvement and utility construction is an integral part of the proposed construction for which the Zoning Certificate is being requested.
- (f) Each plan shall bear statements declaring:
 - (1) That no part of the land involved in the application has been previously used to provide required yard space of lot area for another structure.
 - (2) Which abutting land was formerly that of the owner of the land involved in the application and, if any, the approximate date of title transfer.
- (g) Where complete and accurate information is not readily available from existing records, the Zoning Inspector may require the applicant to furnish a survey of the lot by a registered engineer or surveyor.
- (h) Each property owner or authorized agent shall be required to:
 - (1) attest to the correctness of the statements and data furnished with the application; and,
 - (2) disclose locations of underground mines through consultation with the Ohio Department of Natural Resources (ODNR) Division of Mineral Resources Management (DMRM) using current information publicly available from the Abandoned Underground Mine Locator Web Site. (Ord. No. 09-1939. Passed 11-02-09.)
- (i) A file of such applications and plans shall be kept in the Office of the Zoning Inspector.

Section 1104. Fees and Deposits.

1104.1 Fees shall be charged which are sufficient to cover the costs of administration. No application shall be officially accepted until all required fees have been paid. A fee, in accordance with the following schedule of amounts, shall accompany each application for a Zoning Certificate:

<u>Use</u>	<u>Fee</u>
Single-family Dwelling, including Manufactured Homes	\$100.00
Accessory Building	\$50.00
Signs	\$25.00
Electronic Message Center	\$50.00
Fences	\$25.00
Two-family Dwelling	\$150.00
Multiple Dwelling per unit	\$100.00
Commercial, Industrial or Institutional	\$150.00
Each additional five thousand (5,000) sq. ft. of building floor space or fraction thereof in excess of ten thousand (10,000) square feet of floor space	\$25.00
Building addition, alteration, or demolition	\$50.00
Certificate for the use of land, not involving structures but including changes in the use of land	\$50.00
Concrete, asphalt or brick surfaces	\$25.00
Conditional Use Permit	\$50.00
Temporary Use Permit	\$50.00
Nonconforming Use Permit	\$50.00
Application to Board of Zoning Appeals	\$50.00
Application for Zoning Change/Amendment	\$50.00
Special meeting of Planning Commission or Board of Zoning Appeals	\$250.00
As provided by Section 1104.2, The Zoning Inspector may double the fees charged for work undertaken prior to issuance of the necessary permits or Certificates. (Ord. 14-2128. Passed 01-05-15.) (Ord. 16-2163. Passed 04-18-16.)	

1104.2 In the event that development is undertaken or a use commenced before a Zoning Certificate has been obtained, the Zoning Inspector may double the fee charged for the Zoning Certificate.

1104.3 The Zoning Inspector shall forthwith deposit all fees with the Clerk who shall credit such fees to the credit of the General Revenue Fund of the Municipality.

1104.4 Every Zoning Certificate shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all Zoning Certificates shall be kept on file in the office of the Zoning Inspector or his agent, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.

1104.5 For multi-family, commercial and industrial development projects that require extensive plan review, supervision and inspections, the Village may utilize the services of a private consultant. A fee of five hundred dollars (\$500.00) shall be paid by the applicant to cover the cost of such services. If the Village's cost exceeds the calculated fee, the applicant shall pay the balance within thirty days. Upon final disposition of the application, any monetary balance remaining shall be returned to the applicant. (Ord. 03-1681. Passed 08-04-03.)

Section 1105 Violations, Penalties and Remedies.

1105.1 In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of this Ordinance or any amendment or supplement thereto, the Zoning Inspector, Solicitor, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

1105.2 Any person may file a complaint in regard to an alleged violation of this Ordinance. All such complaints shall be in writing and shall be filed with the Zoning Inspector, who shall promptly record and investigate such complaint. If the Zoning Inspector finds that any provisions of this Ordinance are being violated, he shall proceed as follows:

- (a) The Zoning Inspector shall notify in writing the owner of record or authorized agent in violation. The notice shall indicate the nature of the violation, order the action necessary to correct the violation, and advise that the order may be appealed to the Board of Zoning Appeals.
- (b) Such notice may be served personally or by certified mail. If the Zoning Inspector, after reasonable documented effort, is unable to serve such notice upon the person charged with such violation, he may post such notice in a conspicuous place upon the premises of the violation.

- (c) After such an order is served or posted on the premises, no work, except to secure the property or correct such violation and comply with this Ordinance, shall be permitted on any building or tract of land included in the violation.
- (d) If the owner or authorized agent fails to comply with such order within sixty (60) days after notice has been served, the Village solicitor may be authorized to institute appropriate action to prevent enjoin, abate or eliminate such violation.

1105.3 It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation in or any provisions of this Ordinance or any amendment or supplement thereto adopted by the Council. Any person, firm or corporation violating any regulation thereto shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00). Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues may be deemed a separate offense.

1105.4 Any certificate issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Council, the certificate shall be revoked by notice in writing to be delivered to the holder of the void certificate upon the premises concerned or if such holder be not found there, by posting the said notice of revocation in some conspicuous place upon the said premises. Any person who shall proceed thereafter with such work or use without having obtained a new certificate in accordance with this Ordinance shall be deemed guilty of violation thereof.

ARTICLE XII
BOARD OF ZONING APPEALS; PLANNING COMMISSION

Section 1200. Board of Zoning Appeals.

1200.1 Appointment. There is hereby established a Board of Zoning Appeals which shall consist of five (5) electors appointed by the Council. The five (5) electors first appointed shall serve for terms of one (1), two (2), three (3), four (4), and five (5) years, respectively; thereafter appointments shall be for five (5) year terms, beginning January 1. Each member shall serve until his successor is appointed and qualified. Vacancies shall be filled by the Council and shall be for the respective unexpired term. The members of the Board of Zoning Appeals may receive such compensation as the Council provides.

1200.2 Organization. The Board shall organize annually and elect a President, Vice-president and Secretary. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this ordinance, provided however, that such rules are not inconsistent with any other ordinance of the municipality.

1200.3 Minutes and Records. All meetings of the Board 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 immediately filed in the office of the Clerk and shall be a public record.

1200.4 Quorum. Three members of the Board shall constitute a quorum. The concurring vote of three members of the Board shall be necessary to reverse any order or determination of the Administrator, to decide in favor of an application in any matter of which the Board has original jurisdiction under this Zoning Ordinance or to grant any variance from the requirements stipulated in this ordinance.

1200.5 Witnesses and Oaths. The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents under such regulation as it may establish.

1200.6 Department Assistance. The Board may call upon the various officials and employees of the municipality for assistance in the performance of its duties, and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

Section 1201. Applications and Appeals

1201.1 Applications. An application, in cases in which the Board of Zoning Appeals has original jurisdiction under the provisions of this ordinance, may be taken by any property owner, including a tenant, or by a governmental officer, department, board, or bureau. Such application shall be filed with the Zoning Inspector who shall transmit same to the Board. A nonrefundable fee of fifty dollars (\$ 50.00) shall be deposited with the Zoning Inspector at the time notice of appeal is filed. Any applicant requesting a special meeting of the Board of Zoning Appeals shall pay an additional fee of two hundred fifty dollars (\$250.00) to offset additional costs incurred by the Village for conducting the special meeting. (Ord. 16-2177. Passed 11-7-16.)

1201.2 Appeals:

- (a) An appeal to the Board may be taken by any person aggrieved or by an officer of the City affected by a decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision, by filing with the Zoning Inspector and with the Board a notice of appeal specifying the grounds thereof. The Zoning Inspector shall forthwith transmit to the Board all the papers constituting the records upon which the action was taken.
- (b) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Inspector shall certify to the Board after the notice of appeal has been filed with it that by reason of facts, a stay, in the opinion of the Zoning Inspector, would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of equity, after notice to the officer from which the appeal is taken and on due cause shown.
- (c) The Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part or may modify the order, requirements, decision or determination as in its opinion ought to be made on the premises and to that end shall have the same powers as the Zoning Inspector.

Section 1202. Hearings.

1202.1 The Board of Zoning Appeals shall fix a reasonable time for the hearing of an appeal. Notice of the time and place of hearings shall be mailed, by first class mail, ten (10) days prior to the hearing, to the property owners within two hundred (200) feet of the property requesting the variance. It shall be the responsibility of the applicant to provide names and addresses of said property owners. The notice of the hearing shall also be published in a paper of general circulation in the municipality at least ten (10) days prior to the hearing. At this hearing any party may appear in person or by his attorney.

1202.2 The hearings of the Board shall be public. However, the Board may go into executive session for discussion but not for a vote on any case before it.

1202.3 Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of such hearing unless the Board so decides.

Section 1203. Decision of the Board.

1203.1 The Board of Zoning Appeals shall decide all applications and appeals within thirty (30) days after the final hearing.

1203.2 A certified copy of the Board's decision shall be transmitted to the applicant or appellant and the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him and shall incorporate the terms and conditions of same in the permit to the applicant or appellant, whenever a permit is authorized by the Board.

1203.3 A decision of the Board shall not become final until the expiration of five (5) days from the date of such decision, unless the Board finds the immediate taking of effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

1203.4 Any party adversely affected by a decision of the Board may appeal to the Court of Common Pleas of the county on the ground that the decision was unreasonable or unlawful.

Section 1204. Powers and Duties.

1204.1 The Board shall have the power to interpret the Zoning Ordinance in such a way as to carry out the intent and objective of same when an application is filed to determine the meaning and intent of any wording or provision of the Zoning Ordinance.

1204.2 The Board shall have the power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant or refusal made by the Zoning Inspector in the interpretation of the provisions of the Zoning Ordinance.

Section 1205. Variances. The Board shall have the power to authorize upon appeal in specific cases, filed as previously indicated, such variances from the provisions or requirements of this Ordinance as will not be contrary to the public interest. In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of this Ordinance. On appeal where there is unnecessary hardship, the Board may grant a variance in the application of the provisions of the Zoning Ordinance only if all the following findings are made:

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

Section 1206. Planning Commission

1206.1 Authorization. The Planning Commission has been established by Council pursuant to Ohio Revised Code 713.01 and consists of five (5) members including the mayor, one (1) member of the legislative authority to be elected thereby for the remainder of his term as such member of the legislative authority, and three (3) citizens to be appointed by the mayor for terms of six (6) years each. The members of the Planning Commission may receive such compensation as the Council provides. Any member may hold any other public office.
(Ord. 01-1591. Passed 06-18-01.)

1206.2 Proceedings. The Planning Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of the Zoning Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep records of its official actions, all of which shall be public record.

1206.3 Quorum. A simple majority of the Planning Commission, if in attendance, shall constitute a quorum.

1206.4 Powers and Duties.

- (a) The Planning Commission has the power to hear and decide, in accordance with Article IX of the Zoning Ordinance, applications filed for conditional use permits.
- (b) Where the street layout actually on the ground, or recorded differs from the street and lot lines as shown on the Zoning map. The Planning Commission after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purpose of this Zoning Ordinance. In case of any question as to the location of any boundary line between Zoning Districts, a request for interpretation of the Zoning Map may be made to the Commission and a determination shall be made by the Commission.
- (c) The Commission shall have the power to authorize issuance of a Zoning Certificate for uses that are subject to the performance standards of Article VIII of this Ordinance.
- (d) The Planning Commission may perform such other duties as may be required by ordinance or requested by Council.

(Ord. 16-2163. Passed 04-18-16.)

ARTICLE XIII
DISTRICT CHANGES AND ORDINANCE AMENDMENTS

Section 1300. General

1300.1 Whenever the public necessity, convenience, general welfare or good zoning practice require, Council may by ordinance, after receipt of recommendation from the Planning Commission, and subject to the procedures provided by law, amend, supplement or change the regulations, District boundaries, or classification of property, now or hereafter established by the Zoning Ordinance or amendments thereof. It shall be the duty of the Commission to submit its recommendation regarding all applications or proposals for amendments or supplements to Council.

Section 1301. Procedure for Change in Zoning Districts

1301.1 Initiation of Amendments. Amendments to this Zoning Ordinance may be initiated in one of the following ways:

- (a) By adoption of a motion of the Planning Commission;
- (b) By passage of an ordinance by Council;
- (c) By the filing of an application by at least one owner, agent, or lessee of property within the area proposed to be changed or affected by such amendment.

1301.2 Applications. Applications shall be submitted to the Commission upon such forms as may be prescribed for that purpose. The application shall be accompanied by such information necessary for the fullest practicable presentation of facts and may include the following:

- (a) Name, address and phone number of applicant;
- (b) Present use of the property;
- (c) Present zoning district;
- (d) Proposed use of the property;
- (e) Proposed zoning district;
- (f) A vicinity map showing property lines, thoroughfares, existing and proposed zoning of adjacent parcels and of those across the street;
- (g) Verification by the applicant attesting to the truth and correctness of all facts and information presented with the application;
- (h) A statement giving the reason(s) for the request; and,
- (i) A nonrefundable application fee of fifty dollars (\$250.00).
- (j) If applicable, a special meeting fee of two hundred fifty dollars (\$250.00) to offset additional costs incurred by the Village for conducting the special meeting.

(Ord. 16-2177. Passed 11-7-16.)

1301.3 Action of the Commission. The Zoning Inspector shall forward the application to the Planning Commission for review at the next regular meeting. An applicant may request a special meeting of the Planning Commission to consider the application. The Commission shall make a recommendation to City Council within a reasonable time of receiving a completed application. The Commission may recommend that the application be approved as requested, it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application not be granted. (Ord. 16-2177. Passed 11-7-16.)

1301.4 Public Hearing by the Council. The recommendation of the Commission along with any necessary supporting documents shall be forwarded to Council for their review. After receiving their recommendation and before the adoption of any such amendments, Council shall hold a public hearing thereon, at least thirty (30) days after the notice of the time and place has been given by publication in a newspaper of general circulation in the Village. The notice shall state the place or places and times at which the proposed amendment to the ordinance including text and maps may be examined and other notices as required by state statutes.

1301.5 Notice to Property Owners. If the proposed amendment intends to rezone ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk by first class mail at least twenty days before the date of the public hearing, to all owners of property within, contiguous to and directly across the street from such area proposed to be rezoned. The names and addresses shall be obtained from 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 the legislative authority. The failure to notify as provided in this section shall not invalidate any recommendation adopted hereunder, it being the intent of this section to provide so far as is reasonably possible, due notice to the persons substantially interested in the proposed change that an application is pending.

1301.6 Action of Council. Within twenty (20) days after holding the public hearing, the Council shall consider the Commission's recommendation and vote on the amendment. No ordinance which violates, differs from or departs from the recommendation submitted by the Commission shall take effect unless approved by not less than three-fourths (3/4) of the membership of Council.

1301.7 Resubmittal of Application for Amendment. In the event the proposed amendment has been disapproved by Council, no application for a proposed identical amendment shall be resubmitted for a period of sixty (60) days following such disapproval.

ARTICLE XIV
WIRELESS TELECOMMUNICATION FACILITIES

Section 1400. Intent.

It is the intent of these regulations to provide for the placement of wireless telecommunication facilities to achieve the following objectives:

- (a) To minimize adverse health, safety, welfare, and visual impacts through the buffering, siting and design of such facilities.
- (b) To encourage the sharing of sites among users to minimize the number of towers within the Village.
- (c) To require the prompt removal of obsolete or vacated facilities.
- (d) To exclude from these regulations those installations and systems used by amateur radio operators.

(Ord. 01-1590. Passed 06-18-01.)

Section 1401. Definitions.

- (a) Collocation: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.
- (b) Lattice tower: A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.
- (c) Monopole: A vertical support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
- (d) Open space: Land devoted to conservation or recreational purposes and/or land designated to remain undeveloped.
- (e) Telecommunication: The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.
- (f) Tower Overlay District: The designation for that area within the Village where existing towers are concentrated and where proposed facilities are encouraged to locate. The district shall be further defined as any property within a two hundred (200) foot radius of the intersection of Hillcrest and Bergan Drives.
- (g) Wireless telecommunications antenna: The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

- (h) Wireless telecommunications equipment shelter: The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.
- (i) Wireless telecommunications facility: A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.
- (j) Wireless telecommunications tower: A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

(Ord. 01-1590. Passed 06-18-01.)

Section 1402. Administrative Procedures.

In addition to the requirements of Article XI, the following procedures are established to govern the processing of applications for placement and operation of wireless telecommunication facilities as regulated in this chapter.

- (a) When a wireless telecommunications facility is proposed, the applicant shall submit:
 - (1) A plot plan at a scale of not less than one inch is equal to 100 feet shall be submitted. This plot plan shall indicate all buildings and uses within 300 feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
 - (2) Proof that the applicant holds a bona fide license from the Federal Communications Commission (FCC) to provide telecommunications services that the proposed facility is designed to support.
 - (3) Detailed plans including photographs of the proposed site, and complete structure elevations and a perspective view showing the tower from all adjacent property lines or lot lines.
 - (4) A map depicting the extent of the provider's planned coverage within the Village of Sugarcreek and the service area of the proposed wireless telecommunications site.
 - (5) Evidence of legal access to the tower site of the proposed facility that must be maintained regardless of other developments that may take place on the site.
 - (6) A landscaping plan that indicates how the wireless telecommunications facility will be screened from adjoining uses.
 - (7) Documentation demonstrating that the telecommunications facility is technically necessary and must be sited in the proposed location.

- (8) Evidence of written contact with all wireless service providers who supply service within a quarter mile of the proposed facility. The applicant shall inquire about potential collocation opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within thirty days. The applicant's letter(s) as well as response(s) shall be submitted as a means of demonstrating the need for a new tower.
 - (9) Evidence that the owner of the wireless telecommunications facility has agreed to permit other persons/providers to attach antenna or other communications apparatus which do not interfere with the primary purpose of the facility.
 - (10) Evidence and supporting documentation of compliance with the requirements of the National Environmental Policy Act (NEPA) affecting wilderness areas, wildlife preserves, endangered species, historic sites, Indian religious sites, floodplains, wetlands, high intensity white lights in residential neighborhoods, and radiofrequency emissions in excess of Federal Communications Commission (FCC) guidelines. The applicant shall, at a minimum, submit a copy of the Environmental Assessment (EA), comments received during the applicable review period and the FCC's Finding of No Significant Impact (FONSI).
 - (11) A statement describing anticipated maintenance needs, including frequency of service, equipment needs, and traffic, safety, or noise impacts of such maintenance.
 - (12) A statement that the applicant will avoid interference with established public safety telecommunications.
 - (13) Evidence that demonstrates the applicant's ability to furnish a financial guarantee for the estimated amount of removal of the facility. Such guarantees may be in the form of a performance or surety bond, a certified check, or any other type of surety approved by the Village.
 - (14) The operator of a wireless telecommunications facility shall, at all times, maintain liability insurance as deemed necessary by the Solicitor with the Village named as additional insured. Evidence of such shall be kept on file with the Village.
- (b) The Zoning Inspector may waive any of the above requirements that he determines to be inapplicable in specific instances.
 - (c) Any decision to deny a request to place, construct or modify a wireless telecommunications antenna and/or tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Village Council.
 - (d) The Village Council may refer a pending application to one or more expert

consultants qualified to advise whether a proposed wireless telecommunication facility conforms to the standards of this chapter. Based on such information, the Village Council may approve or deny the application, or may require modification of the proposed facility. The applicant shall pay all fees for services of the expert consultant deemed reasonable and necessary by the Village Council.

- (e) No person, firm or corporation shall erect a wireless telecommunications facility without a permit and no installation or erection shall commence before a permit is issued in accordance with this Chapter. The permit fee for a wireless telecommunications facility is fifty dollars (\$50.00).
- (f) Approvals granted under this Chapter shall expire after 180 days if the work authorized by the approval has not been completed. After this time period, the application for such approval shall be considered null and void. This time limit may be extended by the Zoning Inspector in the event of a change in circumstances, and for good cause shown, provided that there has been substantial progress on the work authorized.

(Ord. 01-1590. Passed 06-18-01.)

Section 1403. Permitted, Conditionally Permitted, and Not Permitted Facilities by Type and Zoning District.

1403.1 Wireless telecommunications facilities are permitted or conditionally permitted in accordance with this Article and the table set forth below. Facilities not specifically permitted or conditionally permitted in a particular district are expressly prohibited in that district.

Facility Type/Order of Preference	S-1	R-1	R-2	R-3	R-4	B-1	B-2	B-3	M-1	M-2
On towers within the Tower Overlay District		P								
On existing or approved towers									P	P
On an existing structure located on property with an industrial, commercial or institutional use including but not limited to a church, a municipal or governmental building or facility, agricultural building, and a building or structure owned by a utility.								C	P	P
On any existing structure located on no less than 2 acres with an institutional use including but not limited to a church, a municipal or governmental building or facility, agricultural building, and a building or structure owned by a utility.	P	P	P	P		P	P			
On new towers less than 60 feet in height									P	P
On new towers less than 60 feet in height located on no less than 2 acres.	C	C	C	C		C	C			
On new towers 60 feet or greater in height									C	C
On new towers 60 feet or greater in height located on no less than 4 acres.	C	C	C	C		C	C			

P = Permitted

C= Conditionally Permitted

1403.2 In the case where an application for a proposed location of a wireless telecommunication site is not a preference 1 through 3 location as listed in 1403.1, the applicant shall adequately describe the efforts and measures taken to pursue these preferences and why a higher preference location was not technologically feasible. Every effort must be made by the applicant to find the least intrusive location so as to minimize impact on the residential community. The supplied documentation shall evaluate the following:

- (a) Unacceptable interference between the proposed facility and the operation of other existing or planned equipment on an existing or approved facility as documented by a qualified licensed engineer and that the interference cannot be prevented or eliminated at a reasonable cost.
- (b) Inability to accommodate the proposed facility on a higher preference building or structure due to structural deficiencies as documented by a qualified licensed engineer and that the deficiencies cannot be prevented or eliminated at a reasonable cost.
- (c) Any restriction or limitation imposed by the FCC.
(Ord. 01-1590. Passed 06-18-01.)

Section 1404. General Requirements.

The following requirements apply to all wireless telecommunications facilities regardless of the zoning district in which they are to be located.

- (a) Wireless telecommunications towers shall be of the monopole design unless the Village determines that an alternative design would better blend in to the surrounding environment.
- (b) A wireless telecommunications facility is permitted on a property with an existing use which may be any permitted use in the district or any lawful nonconforming use, and need not be affiliated with the wireless telecommunications provider. The facility will not be considered an addition to the structure or value of a nonconforming use.
- (c) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas depending on the height of such antenna. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- (d) Underground equipment shelters are encouraged, and may be mandated by the Zoning Inspector where technically feasible.
- (e) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).

- (f) No tower shall be artificially lighted except to assure safety or as required by the FAA. Security lighting around the equipment shelter is permitted.
- (g) No proposed wireless telecommunications site shall be designed, located or operated as to interfere with existing or proposed public safety communications.
- (h) "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency. The number, size and placement of such signs shall be determined by the Zoning Inspector.
- (i) Underground utility wiring to the site and from the tower to any service or ancillary structures shall be required if technically feasible.
- (j) The wireless telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance.
- (k) Equipment, mobile or immobile, not used in direct support of the facility shall not be stored or parked on the site except in connection with a repair or maintenance being made to the installation.
- (l) No supporting wires or cables shall encroach upon any minimum setback requirements.
- (m) Existing vegetation, primarily trees and shrubs, shall be preserved to the maximum extent possible.
- (n) The location of any tower, antenna or equipment shelter shall comply with the performance requirements of Section 707.
- (o) Security fencing shall surround the tower, equipment shelter and any guy wires either completely or individually as approved by the Zoning Inspector.
- (p) No advertising is permitted anywhere on the facility with the exception of identification signage as approved by the Zoning Inspector.

(Ord. 01-1590. Passed 06-18-01.)

Section 1405. Dimensional Requirements

Wireless telecommunications facilities are subject to the following conditions:

- (a) Minimum Lot Size.
 - (1) Tower Overlay District: The area needed to accommodate the tower (and guy wires, if used), the equipment shelter, security fencing, and buffer planting.
 - (2) Industrial Districts: The area needed to accommodate the tower (and guy wires, if used), the equipment shelter, security fencing, buffer planting, and minimum yard requirements.
 - (3) Non-Industrial Districts: 4 acres for towers 60 feet or greater in height and 2 acres for all other facilities. The Planning Commission may waive this requirement for facilities attached to existing structures in the Central Business District when such facilities fully comply with the Design

Requirements of Section 1406.

(b) Minimum Yard Requirements.

- (1) Tower Overlay District: The minimum setback for the applicable zoning district.
- (2) Wireless Telecommunication Facilities: The minimum setback for the applicable zoning district, except that the minimum distance to any single family or two family residential use lot line or residential district lot line shall be 300 feet. The Planning Commission may waive this requirement for facilities attached to existing structures in the Central Business District when such facilities fully comply with the Design Requirements of Section 1406.
- (3) Equipment shelters. The minimum setback for the applicable zoning district.

(c) Maximum Height.

- (1) Tower Overlay District: The maximum height, including antenna, shall be 250 feet from finished grade.
- (2) Tower.
 - A. If the tower is designed to accommodate only one service provider, the maximum height, including antenna, shall be 120 feet from finished grade.
 - B. If the tower is designed to accommodate two service providers, the maximum height, including antenna, shall be 160 feet from finished grade.
 - C. If the tower is designed to accommodate more than two service providers, the maximum height, including antenna, shall be 200 feet from finished grade.
- (3) Equipment shelter. 15 feet above finished grade.
- (4) Antenna attached to existing building or structure. 20 feet or 20% of the building height above the existing building or structure, whichever is less.

(d) Maximum Size of Equipment Shelter. 300 square feet for a single shelter, or, if there is more than one, 750 total square feet for all shelters. The Zoning Inspector may require that providers utilize a single shelter or construct multiple shelters so that they share common walls with each shelter having a separate outside entrance.

(e) Access. Provided along the circulation driveways of the existing use without interfering with the parking or vehicular circulation for the principal use if present.

(Ord. 01-1590. Passed 06-18-01.)

Section 1406. Design Requirements.

- (a) The Planning Commission may require special architectural treatment for wireless telecommunications facilities proposed to be located in the Central Business District as defined by the Village of Sugarcreek Downtown Revitalization Plan of February 5, 1993 and including the following streets:
1. Main Street from Second Street to the Ohio Central Railroad;
 2. Broadway from the Ohio Central Railroad to Maple Street;
 3. East side of Broadway from Maple Street to Shrock Drive;
 4. Maple Street from Broadway to the Ohio Central Railroad;
 5. Factory Street from the Ohio Central Railroad to Shrock Drive;
 6. Moomaw Drive; and,
 7. Shepfer Drive from Moomaw Drive to Shrock Drive.
- (b) In addition to applying the standards for evaluating a conditional use set forth in Article IX of this ordinance, the Planning Commission shall also consider the following:
1. Wireless telecommunications facilities shall be designed to blend into the surrounding existing natural and built environment through the use of approved color or camouflaging architectural treatment.
 2. All utility buildings and structures accessory to a facility shall be architecturally designed to blend in with the surrounding natural and built environment so as to reduce visual impacts on neighboring properties and the character of the community. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
 3. The proposed facility will not unreasonably interfere with the views into and from any public park, aesthetically significant structures, views or community features.

(Ord. 01-1590. Passed 06-18-01.)

Section 1407. Abandonment.

All providers utilizing towers shall present a report to the Zoning Inspector notifying them of any tower facility located in the Village whose use will be discontinued and the date this use will cease. If at any time the use of a facility is discontinued for 180 days, the Zoning Inspector may declare the facility abandoned. This excludes any dormancy period between construction and the initial use of the facility. The facility's owner/operator will receive written notice from the Zoning Inspector that the facility will be declared abandoned unless the owner/operator either reactivate

the facility's use within 180 days, or dismantle and remove the facility after first obtaining a demolition permit. If reactivation or dismantling does not occur within the required time period, the Village will remove or will contract to have removed the facility at the owner/operator's cost. (Ord. 01-1590. Passed 06-18-01.)

ARTICLE XV
FLOOD DAMAGE PREVENTION

Section 1500. Statutory Authorization, Findings Of Fact, Statement Of Purpose, Methods Of Reducing Flood Losses.

1500.1 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 Council of the Village of Sugarcreek, State of Ohio does ordain as follows:

1500.2 Findings of Fact.

- (a) The flood hazard areas of the Village of Sugarcreek are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1500.3 Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (g) Ensure that potential buyers are aware that property is in an area of special flood hazard; and
- (h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1500.4 Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions for:

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

(Ord. 02-1637. Passed 05-20-02.)

Section 1501. Definitions

1501.1 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 it's most reasonable application.

- (a) "Accessory structure" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) "Appeal" means a request for a review of the Zoning Inspector's interpretation of any provision of this ordinance or a request for a variance.
- (c) "Area of special flood hazard" means the land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30, and A99.
- (d) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one hundred year flood.
- (e) "Base flood elevation" means the elevation of the base flood or 100-year frequency flood at any given location in the Special Flood Hazard Area.
- (f) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- (g) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or

- materials located within the area of special flood hazard.
- (h) "Federal Emergency Management Agency (FEMA)" means the agency with the overall responsibility for administering the National Flood Insurance Program.
 - (i) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters; and/or
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (j) "Flood Insurance Rate Map (FIRM)" means an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.
 - (k) "Flood Insurance Study" means the official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries and the water surface elevations of the base flood.
 - (l) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation, more than one foot.
 - (m) "Historic structure" means any structure that is:
 - (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office;
 - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.
 - (n) "Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, and provided that such enclosure is built in accordance with the applicable design requirements specified in this ordinance for enclosures below the lowest floor.

- (o) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include recreational vehicles built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or towed by a light duty truck, used for recreational, camping, travel and seasonal use, which are licensed and road ready or on site no more than 180 days.
(Ord. 03-1681. Passed 08-04-03.)
- (p) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, for which the Ohio Public Health Council has exclusive rule making power.
- (q) "New construction" means structures for which the "start of construction" commenced on or after the initial effective date of the Village's Flood Insurance Rate Map, and includes any subsequent improvements to such structures.
- (r) "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date:
- (1) 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.
 - (2) 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.
 - (3) 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.
- (s) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

- (t) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.
- (u) "Substantial improvement" means:
- (1) Any reconstruction, rehabilitation, addition or other improvement of a structure the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.
 - (2) The term does not, however, include:
 - A. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified prior to the application of a development permit by the Administrator and which are the minimum necessary to assure safe living conditions,
 - B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or
 - C. Any improvement to a structure which is considered new construction.
- (v) "Variance" means a grant of relief to a person from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.
- (w) "Violation" means the failure of a structure or other development to be fully compliant with this ordinance.

(Ord. 02-1637. Passed 05-20-02)

Section 1502. General Provisions.

1502.1 Lands to Which This Ordinance Applies. This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Village of Sugarcreek as identified by the Federal Emergency Management Agency including any additional special flood hazard areas annexed by the Village. The area of special flood hazard described herein shall be designated a Floodplain Overlay District to the existing underlying zoning districts as shown on the official Zoning Map of the Village, and as such, the provisions of this chapter shall serve as a supplement to the underlying district provisions

1502.2 Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard have been identified by the Federal Emergency Management Agency in scientific and engineering reports entitled "Flood Insurance Study for the Village of Sugarcreek" and "Flood Insurance Study for Tuscarawas County". These studies, with accompanying Flood Boundary and Floodway Maps and/or Flood Insurance Rate Maps dated August 4, 1987 and September 30, 1987, respectively, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Studies are on file at the Clerk's Office, 202 North Broadway, Sugarcreek.

1502.3 Compliance. Unless specifically exempted from filing for a development permit as stated in Section 1503.2, no structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this ordinance and all other applicable regulations which apply to uses within the jurisdiction of this ordinance.

1502.4 Abrogation and Greater Restrictions. This ordinance is 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 more stringent restrictions shall prevail.

1502.5 Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements.
- (b) Liberally construed in favor of the governing body; and,
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes. Where a provision of this ordinance may be in conflict with a State law, such State law shall take precedence over the ordinance.

1502.6 Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Village of Sugarcreek, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

1502.7 Violations and Penalties. Violation of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth degree. Any person who violates this ordinance or fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall upon conviction thereof be fined or imprisoned as provided by the laws of the Village of Sugarcreek. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Village of Sugarcreek from taking such other lawful action as is necessary to prevent or remedy any violation. The Village of Sugarcreek shall prosecute any violation of this ordinance in accordance with the penalties stated herein.

1502.8 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.

(Ord. 02-1637. Passed 05-20-02)

Section 1503 Administration.

1503.1 Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 1502.2. Application for a development permit shall be made on forms furnished by the Zoning Inspector and may include, but not be limited to: site specific topographic plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following is required:

- (a) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in areas of special flood hazard where base flood elevation data are utilized from any source;

- (b) Elevation in relation to mean sea level to which any proposed nonresidential structure will be floodproofed in accordance with Section 1504.4(b) where base flood elevation data are utilized from any source;
- (c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 1504.4(b) where base flood elevation data are utilized from any source;
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished; and,
- (e) Certification by a registered professional engineer, architect, or surveyor of the structure's as-built lowest floor or floodproofed elevation.
- (f) Payment of any fees as required in Section 1104.1. Additionally, the Zoning Inspector may require the submission of a bond or other acceptable form of financial guarantee to cover the costs incurred by the Village for architectural or engineering services necessary to determine whether the proposed development meets the requirements of this chapter.

1503.2 Exemption From Filing a Development Permit. An application for a 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 one thousand dollars (\$1,000). Any proposed action exempt from filing for a development permit is also exempt from the standards of this ordinance.

1503.3 Designation of the Flood Damage Prevention Administrator. The Zoning Inspector is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

1503.4 Administrator's Duties. Duties and responsibilities of the Zoning Inspector shall include but are not limited to:

- (a) Permit review.
 - (1) Review all development permit applications to determine that the permit requirements of this ordinance have been satisfied.
 - (2) Review all 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 Department of the Army under Section 10 of the Rivers and Harbors

Act and Section 404 of the Clean Water Act.

- (3) Review all development permit applications to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section 1504.1(a) is met.
 - (4) Inspect or coordinate the inspection of all development projects before, during, and after construction to ensure proper elevation of the structure and to ensure compliance with all provisions of this ordinance.
- (b) Use of other base flood elevation and floodway data. Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section 1502.2, are designated as Zone A on the community's Flood Insurance Rate Map. Within these areas, the Zoning Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of this ordinance.
- (c) Information to be obtained and maintained by the Village. Where base flood elevation data are utilized within areas of special flood hazard on the Village's and the applicable portion of the County's Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:
- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures, and record whether or not such structures contain an enclosure below the lowest floor.
 - (2) For all new or substantially improved floodproofed nonresidential structures:
 - A. Verify and record the actual elevation in relation to mean sea level, to which the structure was floodproofed; and,
 - B. Maintain the floodproofing certifications required in subsection 1503.1(c) hereof.
 - (3) Maintain for public inspection all records pertaining to the provisions of this ordinance, including base flood elevation data, Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, variance documentation, Conditional Letters of Map Revision, Letters of Map Revision, Letters of Map Amendment, and as-built elevations.

- (d) Alteration of watercourses.
- (1) Notify adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse is considered to be altered if any change occurs within its banks.
 - (2) Require that necessary maintenance will be provided for by the applicant for the altered or relocated portion of such watercourse so that the flood-carrying capacity will not be diminished.
 - (3) Maintain engineering documentation required in Section 1503.1(d) that the flood carrying capacity of the altered or relocated portion of said watercourse will not be diminished.
- (e) Interpretation of flood boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. Where a map boundary and elevations disagree, the elevations delineated in the flood elevation profile shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1505.
- (f) Alteration of Community Boundaries. Upon occurrence, notify FEMA in writing whenever the boundaries of the Village of Sugarcreek have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Village of Sugarcreek's Flood Insurance Rate Map accurately represent the Village of Sugarcreek's boundaries, include within such notification a copy of a map of the Village of Sugarcreek suitable for reproduction, clearly delineating the new corporate limits or the new area for which the Village of Sugarcreek has assumed or relinquished floodplain management regulatory authority.

(Ord. 02-1637. Passed 05-20-02)

Section 1504. Provisions For Flood Hazard Reduction.

1504.1 Floodways.

The Flood Insurance Study referenced in Section 1502.2 identifies a segment within areas of special flood hazard known as a floodway. Because the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential, the following provisions apply within all delineated floodway areas:

- (a) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If section (1) hereof is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter. Uses or activities shall not significantly alter the terrain or topography, or, affect the flood storage and conveyance and are limited to the following:
 - (1) Agricultural uses including but not limited to general farming, pasture, grazing, outdoor plant nurseries, horticulture, and forestry.
 - (2) Public and private recreational uses and activities including but not limited to parks, day camps, picnic grounds, golf courses, hiking and horseback riding trails, wildlife and nature preserves, and fish hatcheries.
 - (3) Selective harvesting of timber where no more than twenty-five percent (25%) of the crown cover is removed and trees on the immediate stream banks are not harvested. Damaged or diseased trees or those in imminent danger of being uprooted or falling in or along the stream may be removed. The stump and root structure of trees on the stream bank shall be left in place to retard bank erosion.
 - (4) Accessory residential uses including but not limited to yard areas, gardens, play areas and parking areas.
 - (5) Accessory industrial and commercial uses including but not limited to yard areas, parking and loading areas.

1504.2 General Standards. The following standards apply in all areas of special flood hazard including those where base flood elevation data have been provided. Where a structure, including its foundation members, is elevated on fill to or above the base flood level, the requirements set forth below for Anchoring, and Construction Materials and Methods, are satisfied.

- (a) Anchoring.
 - (1) All 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.

- (2) All manufactured homes, not otherwise regulated under the Ohio Revised Code pertaining to manufactured home parks, shall be 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.
- (b) Construction materials and methods.
- (1) All new construction and substantial improvements shall be constructed with materials resistant to flood damage.
 - (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (3) All 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 located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (c) Utilities.
- (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 floodwaters into the systems and discharge from the systems into floodwaters; and
 - (3) On site waste disposal shall be located to avoid impairment to them or contamination from them during flooding.
- (d) Subdivision proposals.
- (1) All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage;
 - (2) All subdivision proposals, including manufactured home subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and,
 - (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least fifty lots or five acres, whichever is less. All subdivision proposals, including manufactured home subdivisions, shall meet the specific standards of Section 1504.5, Subdivisions and Large Developments.

1504.3 Standards In Areas of Special Flood Hazard Without Base Flood Elevation Data. In all areas of special flood hazard identified as Zone A on the Flood Insurance Rate Map where base flood elevation data are not available from any source, including Section 1503.4(b), new construction and substantial improvement of any residential (including manufactured homes), commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to the flood of record or at least two feet above the highest adjacent natural grade, whichever is greater.

1504.4 Specific Standards. In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 1502.2, Basis For Establishing The Areas Of Special Flood Hazard; Section 1503.4(b), Use Of Other Base Flood Elevation And Floodway Data; Or Section 1504.5, Subdivisions And Large Developments, the following provisions are required:

- (a) Residential construction. New construction and substantial improvement of any residential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation.
- (b) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water to the level of the base flood elevation. In order to be eligible for lower flood insurance rates, the structure should be floodproofed at least one foot above the base flood elevation;
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. Such certification shall be provided to the official as set forth in 1503.1(c).
- (c) Accessory structures. An exemption to the elevation or dry floodproofing standards may be granted for accessory structures (e.g., sheds, detached garages) containing 576 square feet or less in gross floor area. Such structures shall meet the encroachment provisions of Section 1504.1 and the following additional standards:
 - (1) They shall not be used for human habitation;
 - (2) They shall be constructed of flood resistant materials.
 - (3) They shall be designed to have low flood damage potential;

- (4) They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (5) They shall be firmly anchored to prevent flotation; and
 - (6) Service facilities, such as electrical and heating equipment, shall be elevated or floodproofed to or above the level of the base flood elevation; and,
 - (7) They shall meet the opening requirements of Section 1504.4(e).
- (d) Manufactured Homes And Recreational Vehicles. The following provisions shall apply to all new and substantially improved manufactured homes not subject to the manufactured home park requirements of Section 3733.01, Ohio Revised Code:
- (1) Manufactured homes shall be anchored in accordance with Section 1504.2(a).
 - (2) Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation
- (e) Enclosures Below the Lowest Floor. The following standards apply to all new and substantially improved residential and nonresidential non-basement structures which are elevated to or above the base flood elevation using pilings, columns, posts or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters. Fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must:
- (1) Be certified by a registered professional engineer or architect; or,
 - (2) Shall meet or exceed the following criteria:
 - A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area shall be provided;
 - B. The bottom of all openings shall be no higher than one foot above grade; and,
 - (3) Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

1504.5 Subdivisions And Large Developments. In all areas of special flood hazard where base flood elevation data have not been provided in accordance with Section 1502.1, Basis For Establishing The Areas Of Special Flood Hazard Or Section 1503.4, Use Of Other Base Flood Elevation Data, the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least 50 lots or 5 acres (whichever is less):

- (a) The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;
- (b) If Section (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of 1504.2, General Standards, And Section 1504.4, Specific Standards.

(Ord. 02-1637. Passed 05-20-02)

Section 1505. Variance Procedure.

1505.1 Appeal Board.

- (a) The Zoning Board of Appeals as established by the Village of Sugarcreek shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (b) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Zoning Inspector in the enforcement or administration of this ordinance.
- (c) Those aggrieved by the decision of the Zoning Board of Appeals or any taxpayer, may appeal such decision to the Tuscarawas County Court of Common Pleas, as provided in Section 2506 of the Ohio Revised Code.
- (d) In passing upon such applications, the Zoning Board of Appeals shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (6) The necessity to the facility of a waterfront location, where applicable;
 - (7) The compatibility of the proposed use with existing and anticipated development;

- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action if applicable, expected at the site; and,
 - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (e) Upon consideration of the factors of Section (d) above and the purposes of this ordinance, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (f) The Zoning Inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

1505.2 Conditions for Variances. Variances may only be issued where due to physical characteristics of the property compliance with the requirements of this ordinance creates an exceptional hardship. Increased cost or inconvenience of meeting the requirements of this ordinance do not constitute an unnecessary hardship.

- (a) 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 base flood level, providing items in subsection (d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (e) Variances shall only be issued upon:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in unnecessary hardship to the applicant;
 - (3) A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this ordinance, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public as identified in subsection 1505.1 or conflict with existing local laws or ordinances and
 - (4) A determination that the structure or other development is protected by methods to minimize flood damages.

1505.3 Written Notice. 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 that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 02-1637. Passed 05-20-02)

ARTICLE XVI
EFFECTIVE DATE

Section 1600. This Ordinance shall become effective immediately from and after the date of its approval and adoption, as provided by law.

Mayor

Clerk-Treasurer

Passed: Ord. No 96-1346, June 27, 1996