

VILLAGE OF ASHLEY ZONING ORDINANCE

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VILLAGE OF ASHLEY ZONING ORDINANCE

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ARTICLE 5.0:

INTENTION STATEMENT, PURPOSE STATEMENT, POLICY STATEMENTS

This Zoning Ordinance is enacted by the Village of Ashley pursuant to Chapter 713 of the Ohio Revised Code and for the purpose of promoting public health, safety, convenience, comfort, prosperity and general welfare of the Village, protecting natural resources and scenic areas, and securing the most appropriate use of the land.

Intention Statement

It is the intent of the Village of Ashley, Ohio to preserve and protect the community of the Village of Ashley. It is also the intent of the Village of Ashley to implement its Village planning policies. The Village of Ashley defines itself as a place where the existing character is based on the following descriptions:

- ☐ Small Village-size lots with shallow set-backs for the Village care.
- ☐ Tree lined streets arranged in a general grid pattern
- ☐ New construction and land uses enhance existing Village character and pattern
- ☐ New growth is in concert with real population growth and available utility capacities
- ☐ Streetlights, curbs, and sidewalks are important
- ☐ Family oriented social character with clean, quiet neighborhoods
- ☐ Pedestrian/bicycle paths shall be extended to all uses
- ☐ Public open spaces are important
- ☐ Managed street right-of-way of commercial and industrial land use
- ☐ Noise, environmental and appearance guidelines are based on community standards

Purpose Statement

Purpose statements include:

- ☐ To preserve and protect the existing Village
- ☐ To enhance the existing Village appearance
- ☐ To provide for the health, safety and welfare of all Village residents
- ☐ To remain fiscally solvent (tax base/mixed use)
- ☐ Manage appropriate new street right-of-way according to Village utility capacity, road capacity, services and administrative abilities
- ☐ To encourage appropriate infill development
- ☐ To maintain the small scale of the Village
- ☐ To manage and encourage commercial and light industrial land uses
- ☐ Implement noise, environmental and appearance guidelines

- ☐ To maintain and enhance the existing hierarchy of roads
- ☐ To implement Village-appropriate development standards
- ☐ To use open space and civic spaces to define community character, and provide and encourage socialization opportunities
- ☐ To maintain the affordability of the Village according to the means of the current population

Policy Statements

STANDARDS

- * Implement Subdivision Regulations and Engineering Standards.
- * Implement Village Development Standards.
- * Implement CABO Building Codes.
- * Promote the Village public health, safety and welfare. All development shall be reviewed for adequate safety access; this includes but is not limited to: police, emergency and fire access.

PLANNING

- * Encourage infill development which is in keeping with the character of the Village.
- * Maintain, enhance and extend the general grid pattern of the existing Village.
- * Incorporate Master Plan recommendations for Village land use percentage guidelines to govern all future expansion. Note: Each individual expansion should not necessarily meet these guidelines; instead the guidelines are applicable to the overall expansion area.
- * Maintain and enhance the "old downtown" core district.
- * Promote non-vehicular linkages throughout the Village.
- * Promote a controlled, planned street hierarchy and traffic pattern throughout the Village.
- * Maintain and encourage central public gathering spaces, such as the Village Hall, Buckeye Valley East School, park, pool, library, and churches.
- * Promote the extension of current Village features throughout the Village and into new development. Examples include sidewalks, street trees, streetlights, and alleys.
- * Promote the family-oriented characteristics of the Village (clean, quiet neighborhoods).
- * Regulate development throughout the Village.
- * Selectively regulate multifamily land uses throughout the Village.

UTILITIES

- * Developers shall work with the Village to reduce the financial impacts of development. Existing residents of the Village should not pay for impacts due to private development.
- * All users served by the Village sanitary and water services should be located within Village of

Ashley corporate limits.

- * Develop a regional/ Village-wide storm water control system and associated practices.
- * Utilities shall be extended to the outer limits of each new development to encourage future development. Costs to extend utilities to development limits shall be paid by the developer of the said development.
- * Street right-of-way shall occur in conjunction with the availability of adequate capacity of Village infrastructure systems. These include road capacities, sanitary systems, water systems and storm systems.

ENVIRONMENTAL

- * Preserve and enhance the Village of Ashley's critical resources, including historic and visual resources.
- * Preserve the Village of Ashley's environmental resource areas as permanently dedicated open spaces including flood plains (as defined by FEMA) and wetlands (as defined by the Army Corps of Engineers).

ARTICLE 5.1: **HISTORIC RESIDENTIAL DISTRICT (R-1)**

- 5.1.1 Purpose**
- 5.1.2 Permitted Uses**
- 5.1.3 Conditional Uses**
- 5.1.4 Development Standards**

5.1.1 PURPOSE

The Historic Residential District is established as a medium-density, single-family, residential district with limited additional neighborhood-oriented uses. The district shall be served by the Village sanitary sewer and water systems. The R-1 District consists of primarily large older two story homes with covered porches; this District provides for Village residential character and serves to protect and enhance the historic residential district along High Street (S.R. 229). The Historical District is best exemplified by the historic properties located on the corner of East High Street and Ashley Road and other turn-of-the century (19th Century) homes located along High Street.

5.1.2 PERMITTED USES

Permitted uses in the Historic Residential District include:

- Single-family dwellings
- Accessory buildings and uses in association with a permitted dwelling
- Home occupations

5.1.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the Historic Residential District:

- Churches and other similar places of worship
- Public uses such as neighborhood-sized playgrounds, parks, swimming pools, and schools (including private schools)
- Neighborhood community meeting and recreation centers
- Bed and breakfast inns

5.1.4 DEVELOPMENT STANDARDS

- a. Each lot limited to one principal building.
- b. Lot size: 10,890 sq. ft. (0.25 ac.) minimum
- c. Lot coverage (principal building and accessory structures): 35% maximum
- d. Lot width: There shall be a lot width of 66 feet or more at the Front Building Line; such lot shall also have access to and abut on a public street for a distance of 45 feet or more along the lot's Front Lot Line.
- e. Front yard setback: 40 ft. minimum measured from street right-of-way
- f. Side yard setback: 25 ft. minimum total; 9 ft. minimum per side
- g. Rear yard setback: 40 ft. minimum principal building and 10 ft. minimum accessory structures
- h. Height limited to 35 ft. and no more than 2-1/2 stories, excluding steeples and belltowers
- i. Residential unit square footage: 1,400 square feet minimum for 1 1/2 story; 1,600 square feet minimum for 2 stories; 1,800 square feet minimum for 2 1/2 stories.
- j. Detached garage's and accessory structure's front yard setback: front load - 40 ft. minimum and behind or even with the front of principal building; side load - located at or behind the rear of the principal building.
- k. Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance.
- l. Every residential principal building must have a front porch with a roof and a front door which shall face the street that the front of the home faces.
- m. Front porches shall be a minimum of six feet (6') in depth.
- n. No one story principal buildings are permitted.

ARTICLE 5.2:

VILLAGE PATTERN RESIDENTIAL DISTRICT (R-2)

- 5.2.1 Purpose**
- 5.2.2 Permitted Uses**
- 5.2.3 Conditional Uses**
- 5.2.4 Development Standards**

5.2.1 PURPOSE

The Village Pattern Residential District (R-2) is established as a medium density single family residential district with limited additional neighborhood-oriented uses. The district shall be served by the Village water and sanitary sewer systems. As the largest residential area within the current Village boundaries, the R-2 District provides for Village residential character and also serves as a transition between the Village Commercial District and lower density Homestead Residential District. The R-2 District consists primarily of homes with porches with roofs, which porches add to the Village's overall character.

5.2.2 PERMITTED USES

Permitted uses in the Village Pattern Residential District include:

- Single-family detached dwellings
- Accessory buildings and uses in association with a permitted dwelling
- Home occupations

5.2.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the Village Pattern Residential District:

- Churches and other similar places of worship
- Public uses such as neighborhood-sized playgrounds, parks, swimming pools, and schools (including private schools and pools)
- Neighborhood community meeting and recreation centers
- Personal services
- Daycare centers

5.2.4 DEVELOPMENT STANDARDS

- a. Each lot limited to one principal building
- b. Lot size: 7,500 sq. ft. (0.17 ac.) minimum
- c. Lot coverage (principal building and accessory structures) - 35% maximum
- d. Lot width: There shall be a lot width of 60 feet or more at the Front Building Line; such lot shall also have access to and abut on a public street for a distance of 40 feet or more along the lot's Front Lot-Line.
- e. Front yard setback: 15 ft. minimum (measured from the street right-of-way)
- f. Side yard setback: 15 ft. minimum total; 6 ft. minimum per side
- g. Rear yard setback: 40 ft. minimum principal building and 10 ft. minimum accessory structures
- h. Height limited to 35 ft. and no more than 2-1/2 stories for residential structures, 45 feet for barns, other agriculturally-related structures, steeples and belltowers
- i. Residential unit square footage: 1,200 sq. ft. minimum for one-story unit; 1,400 square feet minimum for 1 1/2 story unit; 1,500 sq. ft. minimum for two-story unit; 1,800 square feet minimum for 2 1/2 story unit
- j. Every residential principal building shall have a front porch with a roof.
- k. Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance.
- l. Front porches shall be a minimum of six feet (6') in depth.

ARTICLE 5.3:

HOMESTEAD RESIDENTIAL DISTRICT (R-3)

5.3.1 Purpose

5.3.2 Permitted Uses

5.3.3 Conditional Uses

5.3.4 Development Standards

5.3.1 PURPOSE

The Homestead Residential District (R-3) is established as a low density single family residential district with limited additional neighborhood-oriented uses. The district shall be served by the Village water and sanitary sewer systems. The R-3 District provides for Village rural residential character and also serves as a transition between the higher densities of the Village and the adjacent agricultural land uses outside of the Village corporate limits. Many of the homes have covered porches, which porches add to the Village's overall character.

5.3.2 PERMITTED USES

Permitted uses in the Homestead Residential District include:

- Single-family detached dwellings
- Accessory buildings and uses in association with a permitted dwelling
- Home occupations
- Agricultural uses limited to the keeping of a maximum of 2 animal units and the production of crops; see Appendix A for the animal unit table.
- Bed and breakfast inns

5.3.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the Homestead Residential District:

- Churches and other similar places of worship.
- Public uses such as neighborhood-sized playgrounds, parks, swimming pools and schools (including private schools and pools), neighborhood meeting and recreation areas.
- Multi-family attached dwellings that do not exceed four dwelling units per acre, are located at least 50 feet from any residential lot line, and have the following minimum set backs: front yard set backs 50 feet; side yard - 15 feet per side; and rear yard set back - 25 feet.
- Keeping of limited number of livestock that exceeds 2 animal units; see Appendix A for the animal unit table.
- Daycare centers.

5.3.4 DEVELOPMENT STANDARDS

- a) Each lot limited to one principal building.
- b) Lot size: 21,780 square feet (0.50 ac.) minimum.
- c) Lot coverage (principal building and accessory structures) - 25% maximum.
- d) Lot width : There shall be a lot width of 100 feet or more at the Front Building Line; such lot shall also have access to and abut a public street for a distance of 60 feet or more along the lot's Front Lot Line.
- e) Front yard setback: 40 ft. minimum (measured from the street right-of- way).
- f) Side yard setback: 60 ft. minimum total; 20 ft. min. per side.
- g) Rear yard setback: 40 ft. minimum principal building and 30 ft. minimum accessory structures.
- h) Height limited to 35 ft. and no more than 2-1/2 stories for residential structures, 45 feet for barns, other agriculturally-related structures, steeples and belltowers.
- i) Residential unit square footage - 1,500 sq. ft. minimum one-story unit; 1,650 sq. ft. minimum for 1 1/2 story unit; 1,800 sq. ft. minimum two-story unit; 1,950 sq. ft. minimum for 2 1/2 story unit.
- j) Every residential principal building shall have a front porch with roof.
- k) Accessory structure's front yard setback - 20 ft. minimum behind the front building line of the principal building.
- l) Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance.
- m) Porches shall be a minimum of six feet (6') in depth.

ARTICLE 5.4:

MULTIFAMILY RESIDENTIAL DISTRICT (R-4)

5.4.1 Purpose

5.4.2 Permitted Uses

5.4.3 Conditional Uses

5.4.4 Development Standards

5.4.1 PURPOSE

The Multifamily Residential District (R-4) is established as a medium to high density multifamily residential district. The district shall be served by the Village water and sanitary sewer systems. The R-4 District provides for an alternative to single family residential housing. Many of the homes have covered porches, which porches add to the Village's overall character.

5.4.2 PERMITTED USES

Permitted uses in the Multifamily Residential District include:

- Single-family detached dwellings
- Multifamily attached dwellings
- Group residential facility

5.4.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the Multifamily Residential District:

- Churches and other similar places of worship
- Public uses such as neighborhood-sized playgrounds, parks and pools (including private pools)
- Neighborhood community meeting and recreation centers
- Nursing homes and retirement homes

5.4.4 DEVELOPMENT STANDARDS

- a. Building & density – 4 dwelling units per building maximum; 8 dwelling units per acre maximum.
- b. Lot size: 10,890 sq. ft. (0.25 ac.) minimum
- c. Lot width: There shall be a lot width of 60 feet or more at the Front Building Line; such lot shall also have access to and abut on a public street a distance of 40 feet or more along the lot's Front Lot Line.
- d. Front yard setback: 25 ft. minimum (measured from the street right-of-way)
- e. Side yard setback: 20 ft. minimum total; 10 ft. min. per side
- f. Rear yard setback: 25 ft. minimum; if adjacent to a different residential district, rear yard setback to be 35 ft.
- g. Height limited to 35 ft. and no more than 2-1/2 stories for residential structures, 45 feet for barns, other agriculturally-related structures, steeples and belltowers
- h. Residential unit square footage for multi family attached dwellings: 600 sq. ft. for minimum one-bedroom unit; 800 sq. ft. for minimum two-bedroom unit; 120 sq. ft. for each additional bedroom beyond two bedrooms.
- i. Residential unit square footage for single-family detached dwellings: 1,200 sq. ft. minimum for 1 story; 1,400 sq. ft. minimum for 1 ½ story ; 1,500 sq. ft. minimum for 2 stories; 1,800 sq. ft. minimum for 2 ½ stories.

- j. Every residential principal building shall have a front porch with roof
- k. Accessory structures front yard setback: 20 ft. minimum behind the front building line of the principal building
- l. Open space development standards shall be met for all multifamily developments with 4 or more dwelling units. Setback requirements are not to be included in open space calculations.
- m. Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance.
- n. Porches shall be a minimum of six feet (6') in depth.

ARTICLE 5.5:

MOBILE HOME DISTRICT (R-5)

5.5.1 Purpose

5.5.2 Permitted Uses

5.5.3 Conditional Uses

5.5.4 Development Standards

5.5.1 PURPOSE

The Mobile Home District (R-5) is established as a high density residential district with limited additional neighborhood-oriented uses. The district shall be served by the Village water and sanitary sewer systems.

5.5.2 PERMITTED USES

Permitted uses in the R-5 District include:

- Mobile home dwellings
- Accessory buildings and uses in association with a permitted dwelling

5.5.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the Mobile Home District:

- Public uses such neighborhood-sized playgrounds, parks, swimming pools and schools (including private schools and pools)
- Neighborhood community meeting and recreation centers

5.5.4 DEVELOPMENT STANDARDS

- a. Each lot limited to one principal structure
- b. Mobile home park size: 5 acre minimum
- c. Density: 8 dwelling units/ acre maximum
- d. Lot size: 4,000 sq. ft. (0.091 ac.) minimum
- e. Lot coverage (principal and accessory structures) - 35% maximum
- f. Lot width: There shall be a lot width of 60 feet or more at the Front Building Line; such lot shall also have access to and abut on a private or public street for a distance of 30 feet or more along the lot's Front Lot Line.
- g. Front yard setback: 20 ft. minimum (measured from the street right-of-way)
- h. Side yard setback: 20 ft. minimum total; 10 ft. min. per side

- i. Rear yard setback: 10 ft. minimum principal and accessory structures
- j. Height limited to 25 ft. and no more than 2-1/2 stories for residential structures
- k. Residential unit square footage - 600 sq. ft. minimum
- l. All units shall be skirted entirely, enclosing the bottom section at the time of occupancy. Skirting shall match the siding of the unit.
- m. All units shall be free from rust and damaged siding.
- n. Each mobile home lot shall be provided with a minimum paved patio area of 200 sq. ft.
- o. Storage facilities shall be provided for each lot and shall be constructed of weather resistant materials with a minimum of 90 cubic feet.
- p. Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance.
- q. Open space development standards shall be met for all mobile home parks (see Article 5.15.9)

ARTICLE 5.6:

VILLAGE COMMERCIAL DISTRICT (C-1)

- 5.6.1 Purpose**
- 5.6.2 Permitted Uses**
- 5.6.3 Conditional Uses**
- 5.6.4 Development Standards**

5.6.1 PURPOSE

The Village Commercial District is established as the historic, neighborhood, mixed-use business residential district. The C-1 district shall continue to serve as the core commercial district of the Village of Ashley.

5.6.2 PERMITTED USES

Permitted uses in the Village Commercial District include:

- Farmers' market
- Apartments and attached condominiums, limited to a maximum of 12 units per structure; second and third floor occupancy only
- Public facilities such as government offices, post office, auditorium, etc.
- Retail stores
- Personal services
- Business and professional offices
- Restaurants (without drive-thru windows)
- Doctors offices, medical clinics
- Public uses - neighborhood-sized playgrounds and parks, schools (including private schools)
- Arts and crafts studios, workshops, and exhibition spaces

5.6.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the C-1 District:

- Churches and other similar places of worship.

5.6.4 DEVELOPMENT STANDARDS

- a. Each lot limited to one principal structure
- b. Lot size: 3,800 sq. ft (0.087 ac.) minimum
- c. Lot coverage (principal and accessory structures) - 90% maximum
- d. Lot width: There shall be a lot width of 40 feet or more at the Front Building Line; such lot shall also have access to and abut on a public street for a distance of 30 feet or more along the lot's Front Lot Line.
- e. Front yard setback - 0 ft.
- f. Side yard setback: 0 ft. per side
- g. Rear yard setback: 10 ft. minimum
- h. Height limited to 45 ft. and no more than 3 stories, excluding steeples and belltowers
- i. Residential unit square footage - 600 sq. ft. minimum for one-bedroom unit; 800 sq. ft. minimum for two-bedroom unit; 120 sq. ft. for each additional bedroom beyond two bedrooms.
- j. Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance
- k. Minimum front facade height of 16 ft.
- l. No parking permitted between street right of way and front building line.

ARTICLE 5.7:

HIGHWAY COMMERCIAL DISTRICT (C-2)

- 5.7.1 Purpose**
5.7.2 Permitted Uses
5.7.3 Conditional Uses
5.7.4 Development Standards

5.7.1 PURPOSE

The Highway Commercial District is established as a highway-related commercial business district to serve the vehicular oriented retail commercial uses of the Village of Ashley.

5.7.2 PERMITTED USES

Permitted uses in the Highway Commercial District include:

- Retirement homes, nursing homes
- Retail stores
- Personal services
- Business and professional offices
- Automotive repair garages
- Automotive service stations
- Restaurants (without drive-thru windows)
- Doctors offices, medical clinics
- Public uses such as neighborhood-sized playground, parks, swimming pools and schools (including private schools and pools)
- Arts and crafts studios, workshops, and exhibition spaces

5.7.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following uses may be allowed in the C-2 District:

- Churches and other similar places of worship, limited to 200 seats in the main assembly hall
- Drive-in and drive-thru uses
- Hotels and motels
- Veterinary clinics, with or without boarding facilities
- Funeral parlors
- Discount and department stores
- Farm markets and garden centers

5.7.4 DEVELOPMENT STANDARDS

- a. Each lot limited to one principal structure
- b. Lot size: 0.50 acre minimum
- c. Lot coverage (principal and accessory structures) - 90% maximum
- d. Lot width: There shall be a lot width of 100 feet or more at the Front Building Line; such lot shall also have access to and abut on a public street for a distance of 60 feet or more along the lot's Front Lot Line.
- e. Front yard setback: 65 ft. minimum
- f. Side yard setback: 30 ft. minimum per side
- g. Rear yard setback: 30 ft. minimum
- h. Height limited to 35 ft. and no more than 2-1/2 stories, excluding steeples, gables and belltowers
- i. Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15 and 5.18 of this Ordinance.

ARTICLE 5.8: **INSTITUTIONAL DISTRICT (I)**

- 5.8.1 Purpose**
- 5.8.2 Permitted Uses**
- 5.8.3 Conditional Uses**
- 5.8.4 Development Standards**

5.8.1 PURPOSE

The Institutional District (I) is established as a mixed use public service district. The district shall be served by the Village water and sanitary sewer systems. The I District provides locations for civic uses and some limited, conditionally-permitted office uses.

5.8.2 PERMITTED USES

Permitted uses in the Institutional District:

- Churches and other similar places of worship
- Government buildings
- Public uses such as golf courses, playgrounds and parks, schools (including private schools)
- Neighborhood community meeting and recreation centers
- Daycare centers
- Libraries
- Museums and other exhibition spaces

5.8.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon

which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the Community Civic Use District:

- Business and professional offices
- Personal services
- Arts and crafts studios and workshops

5.8.4 DEVELOPMENT STANDARDS

- a. No minimum lot area is required; however, all lots shall have access to and abut on a public street and the lot area shall be adequate to provide the required front, sides and rear yard space.
- b. No lot coverage maximum is established; however, the lot coverage shall permit compliance with the front, sides and rear yard space requirements.
- c. No minimum lot width is established; however, all lots shall have access to and abut on a public street and have adequate width to provide the required side yard space.
- d. The minimum front yard setback shall be the average of the existing adjacent structures on the same side of the street and facing thereon within the same block. Where there are no adjacent structures, the front building line shall not be less than 15 feet measured from the street right-of-way.
- e. The required side and rear yards shall not be less than 1/3 the sum of the height and depth of the structure, but in no case less than 15 feet on each side and no less than 15 feet for the rear.
- f. Height limited to 35 ft. and no more than 2-1/2 stories, excluding steeples and belltowers.
- g. Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance.

ARTICLE 5.9:

MANUFACTURING/ LIGHT INDUSTRIAL DISTRICT (M-1)

- 5.9.1 Purpose**
- 5.9.2 Permitted Uses**
- 5.9.3 Conditional Uses**
- 5.9.4 Development Standards**

5.9.1 PURPOSE

The Manufacturing/ Light Industrial District is established as a corporate office, light industrial, warehousing and service district to the Village of Ashley. The district shall be served by the Village water and sanitary sewer systems.

5.9.2 PERMITTED USES

Permitted uses in the Manufacturing/ Light Industrial District include:

- Light manufacturing
- Wholesaling and warehousing
- Business and professional offices
- Horticultural nurseries
- Automotive service stations
- Automotive repair garages
- Storage facilities

For a wireless telecommunication facility, see Article 5.13.

5.9.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the Manufacturing/ Light Industrial District:

- Retail stores
- Restaurants

5.9.4 STANDARDS

- a) Each lot limited to one principal structure
- b) Lot size: 0.50 acre minimum
- c) Lot coverage (principal and accessory structures) - 70% maximum
- d) Lot width – There shall be a lot width of 100 feet or more at the Front Building Line; such lot shall also have access to and abut on a private or public street for a distance of 60 feet or more along the lot's Front Lot Line.
- e) Front yard setback: 65 ft minimum
- f) Side yard setback: 30 ft minimum per side
- g) Rear yard setback: 30 ft minimum
- h) Height limited to 35 ft and no more than 2-1/2 stories, excluding towers
- i) Service areas of the principal structure, such as docks, dumpsters, etc, shall be located either on the side or rear of the principal structure
- j) Storage areas shall be located behind the principal structure
- k) Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance.

ARTICLE 5.10: **GREEN SPACE DISTRICT (GS)**

5.10.1 Purpose

5.10.2 Permitted Uses

5.10.3 Conditional Uses

5.10.4 Development Standards

5.10.1 PURPOSE

The Green Space (GS) District is established as a passive use recreational conservancy district.

5.10.2 PERMITTED USES

Permitted uses in the Green Space District include:

- Golf courses and passive recreation areas
- Livestock stabling and boarding operations not to exceed 90 animal units; see Appendix A for the animal table.

5.10.3 CONDITIONAL USES

Within this zoning district certain uses may be permitted as conditional uses, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 5.24 and other provisions of this Ordinance. Unless the Conditional Use Permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the Conditional Use Permit, and the subsequent owner or owners shall be required to reapply for a continuation and/or modification of such use to the Board of Zoning Appeals.

The following conditional uses may be allowed in the Green Space District:

- Agricultural shows, fairs and festivals
- Horse racing
- Amphitheater (300 seats or fewer)
- Active recreation areas
- Club house/restroom facilities

The following uses are not permitted in the Green Space district:

- Dog kennels
- Veterinary boarding facilities

5.10.4 DEVELOPMENT STANDARDS

- a. Height limited to 35 ft. and no more than 2 1/2 stories
- b. Each and every use shall comply with all of the Development Standards contained in Articles 5.14, 5.15, and 5.18 of this Ordinance.

ARTICLE 5.11

Reserved for Future Use

ARTICLE 5.12

Reserved for Future Use

ARTICLE 5.13:

WIRELESS TELECOMMUNICATIONS FACILITIES

- 5.13.1 Purpose.
- 5.13.2 Applicability.
- 5.13.3 Definitions.
- 5.13.4 General requirements.
- 5.13.5 Permitted locations.
- 5.13.6 Locations requiring conditional use approval.
- 5.13.7 Co-location requirements.
- 5.13.8 Abandonment of tower.
- 5.13.9 Variances and special exceptions.
- 5.13.10 Miscellaneous.

5.13.1 PURPOSE

The regulations of the placement, construction and modification of Towers and Wireless Telecommunications Facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications environment in the Village, specifically:

- a) To direct the locations of Towers and Wireless Telecommunications Facilities in the Village.
- b) To protect residential areas and land uses from potential adverse impacts of Towers and Wireless Telecommunications Facilities.
- c) To minimize adverse visual impacts of Towers and Wireless Telecommunications Facilities through careful design, siting, landscaping and innovative camouflaging techniques.
- d) To promote and encourage shared use/Co-location of Towers and Antenna support structures as a primary option rather than construction of additional single-use Towers.
- e) To avoid potential damage to adjacent properties caused by Towers and Wireless Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained

- and removed.
- f) To the greatest extent feasible, ensure that Towers and Wireless Telecommunications Facilities are compatible with surrounding land uses.
- g) To the greatest extent feasible, ensure that the proposed Towers and Wireless Telecommunications Facilities are designed in harmony with natural settings and in a manner consistent with current development patterns.

5.13.2 APPLICABILITY.

- a) All Towers, Antenna Support Structures and Wireless Telecommunications Facilities, any portion of which are located within the Village , are subject to this Article.
- b) Except as provided herein, any use being made of an existing Tower or Antenna Support Structure on the effective date of this Article (hereinafter referred to as "Nonconforming Structures") shall be allowed to continue, even if in conflict with the terms of this Article. Any Tower site that has received Village approval in the form of either a special exception or building permit, but has not yet been constructed or located, shall be considered a Nonconforming Structure so long as such approval is current and not expired.

5.13.3 DEFINITIONS.

For purposes of this Article, the following terms, phrases and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- a) "Antenna" (Antennae) means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennae shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and Antenna support, all of which elements are deemed to be a part of the Antenna.
- b) "Antenna (Antennae) Support Structure" means any building or other structure other than a Tower which can be used for location of Wireless Telecommunications Facilities.
- c) "Applicant" means any Person that applies to the Village to construct an antenna and/or tower and/or applies for a Conditional Use permit pursuant to the requirements set forth in Article 5.24 and in provisions of this Article.
- d) "Application" means the process by which an Applicant submits a request and indicates a desire to be granted a Conditional Use permit under the requirements of Article 5.24, and the provisions of this Article. An Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an Applicant to the Village concerning such a request.
- e) "Code" means the Ordinances and all Regulations of the Village of Ashley, Ohio
- f) "Co-location" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.
- g) "Emergency" means a reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
- h) "Equipment Shelter" means a structure in which the electronic receiving and relay equipment for a Wireless Telecommunications Facility is housed.
- i) "FCC" means the Federal Communications Commission or any legally appointed, designated or elected agent or successor.
- j) "High Tension Power Line" means an electrical transmission line of 138 KV or higher mounted on a metal tower over forty (40) feet in height located in an easement of at least forty (40) feet in width.
- k) "Monopole" means a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.
- l) "Non-Residential Zoning Districts" means the following Districts classified in the Zoning Ordinance of the Village of Ashley, as amended: Village Commercial District (C-1), Highway Commercial District

- (C-2), Institutional District (I), and Manufacturing/Light Industrial District (M-1).
- m) "Open Space" means land in the Green Space District of the Village's Zoning Ordinance and other real estate devoted to conservation and recreational purposes and/or real estate designated by the Village to remain undeveloped.
 - n) "Tower" means a self-supporting lattice, guyed or Monopole structure constructed from grade which supports Wireless Telecommunications Facilities. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.
 - o) "Wireless Telecommunications Facilities" means any cables, wires, lines, wave guides, Antennae, Towers and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a Person seeks to locate or has installed upon a Tower or Antenna Support Structure. However, the term Wireless Telecommunications Facilities shall not include any of the following:

(1) Any satellite earth station Antenna one (1) meter or less in diameter, regardless of zoning category; (2) Antennae used by amateur radio operators; (3) Antennae used for television reception; (4) Antennae used for am/fm radio reception; (5) Antennae used by citizens band radio operators; (6) Antenna used for residential broadband internet access.

5.13.4 GENERAL REQUIREMENTS.

- a) Permitted or Conditional Use. Wireless Telecommunications Facilities are either Permitted Uses or Conditional Uses in a variety of zoning districts contingent upon a number of requirements being met. These criteria are in place in an attempt to minimize adverse health, safety, public welfare or visual impacts through buffering, siting, design and construction, and reduction of the need for new Towers.
- b) Requirements of All Wireless Telecommunications Facilities. The following requirements apply to all Wireless Telecommunications Facilities regardless of the zoning district in which they are to be located.
 - (1) Each Applicant for an Antenna and/or Tower shall provide to the Village an inventory of its existing Towers, Antennae, or sites planned and/or approved for Towers or Antennae that are either within the jurisdiction of the Village or within two miles of the border thereof, including specific information about the location, height, and design of each Tower. The Village may share such information with other Applicants seeking to locate Antennae within the jurisdiction of the Village, provided, however, that the Village is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
 - (2) Towers and Antennae shall meet the following requirements:
 - A. Color and finish. Towers shall either maintain a non-contrasting gray or similar color or have a galvanized steel finish unless otherwise required by the Village or any applicable standards of the FAA, FCC or ODOT.
 - B. Compatible design. At a Tower site, the design of the buildings and related structures shall use materials, colors, textures and screening so as to be aesthetically and architectural, compatible with the surrounding environment, as approved by the Village.
 - C. Antenna Color. If an Antenna is installed on a structure other than a Tower, the Antenna and supporting electrical and mechanical equipment must be a neutral color, as approved by the Village that is identical to, or closely compatible with the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible.
 - D. Fencing. Any fencing shall comply with the Village's Code and shall be subject to approval of the Village.
 - E. Lighting. Towers and Antennae shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
 - F. State or Federal requirement. All Towers must meet or exceed current standards and regulations for the FAA, FCC and any other agency of the state or federal government with the authority to regulate Towers and Antennae. If such standards and regulations are changed, then the owners of the Towers and Antennae governed by this Article

shall bring such Towers and Antennae into compliance with such revised standards within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring Towers and Antennae into compliance with such revised standards and regulations shall constitute grounds for the removal of the Tower or Antenna at the owner's expense.

- G. Building Codes/safety standards. To ensure the structural integrity of Towers, the owner of a Tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for Towers that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the Village concludes that a Tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the Tower, the owner shall have thirty (30) days to bring such Tower into compliance with such standards. Failure to bring such Tower into compliance within said thirty (30) days shall constitute grounds for the removal of the Tower or Antenna at the owner's expense.
- H. Non-essential services. Tower and Antennae shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public service facilities, or utilities (public or private).
- I. License to operate. Owners and operators of Towers or Antennae shall submit copies of all franchises, certifications, licenses and permits required by law for the design, construction, location and operation of wireless communications to the Village and the Owners and/or operators shall be required to maintain same and to provide evidence of renewal or extension thereof when granted.
- J. Signs. No signs shall be allowed on an Antenna or Tower. A sign shall be posted on the surrounding fencing or equipment and shelters indicating the emergency contact phone number for the Tower owner/operator. Any identification signage shall be in accordance with the requirements of the Code.
- K. Underground Equipment Shelters. Underground Equipment Shelters will be required where appropriate screening of shelter cannot be accomplished.
- L. Accommodation. All Towers shall be constructed or reconstructed to accommodate multiple users.
- M. Maximum height. No Tower, including Antenna, shall exceed two hundred (200) feet, as measured from the grade at the base of the Tower.

5.13.5 PERMITTED LOCATIONS.

Wireless Telecommunication Facilities are permitted in the Manufacturing/Light Industrial District, but subject to the conditions set forth below and the other requirements set forth in this Article 5.13. Wireless Telecommunication Facilities are also permitted in other zoning districts when co-located on existing structures such as apartment buildings, water towers, church towers, electric transmission towers, chimneys and cooling towers, are in compliance with this Article 5.13, and are subject to the conditions set forth below:

- a. Tower-Sole Use On a Lot. A Wireless Telecommunications Facility is permitted as a sole use on a lot in the Manufacturing/Light Industrial District subject to the following:
 - (1) Minimum Yard Requirements. The minimum distance to any non-Manufacturing/Light Industrial District lot line shall be two hundred (200) feet from the base of the Tower.
 - (2) Maximum Size of Equipment Shelter. Four hundred (400) square feet for a single shelter, or, if there is more than one, eight hundred (800) total square feet.
- b. Tower-Combined With Another Use. A Wireless Telecommunications Facility is permitted on a property in the Manufacturing/Light Industrial District with an existing use subject to the following conditions:
 - (1) Minimum Lot Area. The minimum lot area shall be the area needed to accommodate the Tower (and guy wires, if used), the Equipment Shelter, security fencing, buffer planting and any appropriate setback.

- (2) Minimum Yard Requirements. The minimum distance to any non-Manufacturing/Light Industrial District lot line shall be two hundred (200) feet from the base of the Tower.
 - (3) Access. The service to the Equipment Shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - (4) Maximum Size Of Equipment Shelter. Four hundred (400) square feet for a single shelter, or if there is more than one shelter, eight hundred (800) square feet.
 - (5) General Requirements.
 - (i) The existing or future use on the property may be any permitted use or any lawful nonconforming use in the Manufacturing/Light Industrial District, and need not be affiliated with the wireless telecommunications provider.
 - (ii) The Wireless Communications Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance (except during construction or an Emergency).
- c. Antenna-Combined With An Existing Structure. Where possible, an Antenna for a Wireless Telecommunications Facility shall be attached to an existing structure or building subject to the following conditions:
- (1) Maximum Height. Fifteen (15) feet or five percent (5%) of the building height above the existing building or structure, whichever is greater, but in any case, any height shall not exceed the structural height limitation in the applicable district by more than fifteen (15) feet.
 - (2) Equipment Shelter. If the Applicant proposes to locate the telecommunications equipment in a separate Equipment Shelter (not located on, or attached to the building), the Equipment Shelter shall comply with the following:
 - (i) A minimum setback of fifty (50) feet.
 - (ii) A buffer yard shall be planted that has been prepared in accordance with the Zoning Code as amended, and approved by the Village,
 - (iii) Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
 - (iv) The maximum size of the Equipment Shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.
 - (3) That the Antenna Support Structure and Wireless Telecommunications Facilities comply with the appropriate building code.
 - (4) That any Wireless Telecommunications Facilities and their appurtenances, located on the roof of a building, are set back one (1) foot from the edge of the roof, not including for the penthouse, for each one (1) foot in height of the Wireless Telecommunications Facilities. However, this setback requirement shall not apply to Antennas less than two (2) inches in thickness, which are mounted to the sides of Antenna Support Structures, but which do not protrude more than six (6) inches from the side of such an Antenna Support Structure.
 - (5) That the Wireless Telecommunications Facilities will utilize camouflaging techniques or will be side-mounted to an Antenna Support Structure in order that the Wireless Telecommunications Facilities harmonize with the character and environment of the area in which they are located.

5.13.6 LOCATION REQUIRING CONDITIONAL USE APPROVAL.

Wireless Telecommunications Facilities, including Towers, are permitted only as set forth in 5.13.5 except under the following conditions:

- a) The proposed location is on property not zoned as Manufacturing/Light Industrial District that is devoted primarily to a non-residential use (e.g., church, park, library, municipal/government, hospital, school, utility); or
- b) The proposed location is located in a high tension power line easement; or
- c) The proposed location is located on any lot so long as it is at least 200 feet from a dwelling and is located

- d) within 100 feet of US highway 42, and is not on property zoned residential (R-1, R-2, R-3, R-4 and R-5). A conditional use permit is approved in accordance with the provisions of this section and the requirements of Article 5.24. In applying for a permit in any district, the Applicant must present sufficient evidence as to why it is not technically feasible to locate in a permitted location as set forth in 5.13.5. Once those efforts have been exhausted, a person may make application for a Conditional Use Permit for a Wireless Telecommunications Facility subject to the requirements of Article 5.24 of the Zoning Ordinance and the following:

- (1) The Wireless Telecommunications Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance.
- (2) Antenna-Combined With a Non-Residential Use. An Antenna may be attached to: a nonresidential building or a structure that is a permitted use in the district, including but not limited to a church, a municipal or governmental building or facility, or a building or structure owned by a utility. The following conditions shall be met:
 - A. Maximum Height. Fifteen (15) feet above the existing building or structure.
 - B. Equipment Shelter. If the Applicant proposes to locate the telecommunications equipment in a separate Equipment Shelter, the Equipment Shelter shall comply with the following:
 - (i) The Equipment Shelter shall comply with the minimum setback of fifty (50) feet.
 - (ii) The maximum size of the Equipment Shelter shall not exceed four hundred (400) square feet, or, if there is more than one shelter, eight hundred (800) square feet.
 - (ii) A buffer yard shall be planted that has been prepared in accordance with Village ordinance and approved by the Village.
 - (iv) Vehicular access to the Equipment Shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
- (3) Tower-Located on a Non-Residential-Use Property. A Tower to support an Antenna may be constructed on a property with a non-residential use that is a permitted use within the district, including but not limited to a church, school, municipal or government building facility or structure, subject to the following conditions:
 - A. The Tower shall be set back from any property line abutting a single-family or multi family residential lot by at least two hundred (200) feet.
 - B. The maximum size of the Equipment Shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.
 - C. Vehicular access to the Tower and Equipment Shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
- (4) Antenna-Located on a Residential Building. An Antenna for a Wireless Telecommunications Facility may be attached to a mid-rise or high-rise apartment building subject to the following conditions:
 - A. Maximum Height. The Antenna shall extend no more than fifteen (15) feet above the existing building.
 - B. Equipment Shelter. If Applicant proposes to locate the telecommunications equipment in a separate Equipment Shelter (not building), the Equipment Shelter shall comply with the following:
 - (i) The shelter shall comply with the setback of fifty (50) feet.
 - (ii) The maximum size of the Equipment Shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.
 - (iii) A buffer yard shall be planted in accordance with the Village Ordinances and as approved by the Village.
 - (iv) Vehicular access to the Equipment Shelter shall, if at all possible, use the existing circulation system.

- (5) Tower-Located in Open Space. A Wireless Telecommunications Facility is permitted on land that has been established as Open Space, subject to the following conditions:
- A. The Open Space shall be owned by the Village, county or state government, a homeowners association, charitable organization, or a private non-profit conservation organization.
 - B. The maximum size of the Equipment Shelter shall not exceed four hundred (400) square feet, or, if there is more than one shelter, eight hundred (800) square feet.
 - C. The Tower shall be set back from any single-family residential or multi family residential property line two hundred (200) feet.
 - D. In order to locate a telecommunications facility on real estate that is vacant, the tract shall be at least 1.5 acres, or as otherwise determined by the Board of Zoning Appeals.
- (6) Criteria For All Wireless Telecommunications Facility-Towers: Wireless Telecommunications Facilities, which include a Tower, may be permitted as a Conditional Use if they comply with the terms of Article 5.24 and the criteria below. In order to be considered for review, the Applicant must prove that a newly-constructed Tower is necessary because co-location on an existing Tower is not feasible.
- A. The Applicant shall demonstrate that the Tower must be located where it is proposed in order to service the Applicant's service area. There shall be an explanation of why a Tower and this proposed site is technically necessary.
 - B. Where the Wireless Telecommunications Facility is located on a property with another principal use, the Applicant shall present documentation that the owner of the property supports the Application and that appropriate vehicular access is provided to the facility.
 - C. The Applicant shall present a site-landscaping plan showing the specific placement of the Wireless Telecommunications Facilities on the site; showing the location of existing structures, trees and other significant site features; and indicating type and locations of plant materials used to screen the facilities, and the proposed color of the facilities in accordance with the Code.
 - D. Applicant shall present a signed statement indicating:
 - (i) The Applicant agrees to allow for the potential co-location of additional Wireless Telecommunications Facilities by other providers on the Applicant's structure or within the same site location; and at reasonable fair market cost.
 - (ii) That the Applicant agrees to remove the facility within one hundred eighty (180) days after the site's use is discontinued.
 - E. A Conditional Use permit must be approved by the Board of Zoning Appeals with a subsequent building permit issued for construction of new Towers. Co-location of Antennae on a single Tower, Towers located in the Manufacturing/Light Industrial District, or replacement Towers to be constructed at the site of a current Tower are permitted uses and will not be subject to the Conditional Use permitting process.
 - F. The application for a wireless communication facility may be transmitted to appropriate professional consultants for review and comment. Any reports, comments, or expert opinions shall be compiled and reviewed by the Zoning Inspector and transmitted to the Board of Zoning Appeals prior to the time of the Board's review.
 - G. Any decision to deny a request to place, construct or modify a wireless telecommunications facility and/or Tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Board of Zoning Appeals.

5.13.7 CO-LOCATION REQUIREMENTS.

- a. No new Tower shall be constructed in the Village unless such Tower is capable of accommodating at least one additional wireless telecommunications facility owned by other Persons.
- b. A Conditional Use permit shall be issued only if there is not technically suitable space reasonably available on an existing Tower or structure within the geographic area to be served. With the permit application, the Applicant shall list the location of every Tower, building, or structure within the search area that could support the proposed Antenna. The Applicant must demonstrate that a technically suitable location is not reasonably available on an existing Tower, building or structure. If another communication Tower is technically suitable, Applicant must show that it has offered to allow the owner to co-locate an Antenna on another Tower within the Village owned by Applicant on reciprocal terms, and the offer was not accepted, or the other Tower is presumed to be reasonably available.

5.13.8 ABANDONMENT OF TOWER.

- a. All providers utilizing Towers shall present a report to the Zoning Inspector notifying him of any Tower located in the Village whose use will be discontinued and the date this use will cease.
 - (1) If at any time the use of the Tower is discontinued for one hundred eighty (180) days, the Zoning Inspector may declare the Tower abandoned. (This excludes any dormancy period between construction and the initial use of the facility).
 - (2) The Tower's owner/operator will receive written notice from the Zoning Inspector and be instructed to either reactivate the Tower's use within one hundred eighty (180) days, or dismantle and remove the Tower.
 - (3) If reactivation or dismantling does not occur, the Village will remove or will contract to have removed the Tower and any appurtenances and assess the owner/operator the costs.
- b. The Village must provide the Tower owner three (3) months notice and an opportunity to be heard before the Board of Zoning Appeals before initiating such action. After such notice has been provided, the Village shall have the authority to initiate proceedings to either acquire the Tower and any appurtenances attached thereto at the then fair market value, or in the alternative, treat the Tower as a nuisance and order the demolition of the Tower and all appurtenances.
- c. The Village shall provide the Tower owner with the right to a public hearing before the Board of Zoning Appeals, which public hearing shall follow the three (3) month notice. All interested parties shall be allowed an opportunity to be heard at the public hearing.
- d. After a public hearing is held pursuant to Section (C) above, the Board of Zoning Appeals may order the acquisition or demolition of the Tower and any appurtenances. The Village may require Permittee and/or landowner to pay for all expenses necessary to acquire or demolish the Tower.

5.13.9 VARIANCES AND SPECIAL EXCEPTIONS

Any request to deviate from any requirements of this Article shall require variance approval in conformance with the procedures set forth in the Zoning Ordinance, as amended.

5.13.10 MISCELLANEOUS.

- a. Non-Waiver. Nothing in this Article shall preclude the Village from exercising any right or remedy it may have in law or equity to enforce the terms and conditions of this Article.
- b. Severability. If any provision of this Article or the application of any provision of this Article to any Person is, to any extent, held invalid or unenforceable by a tribunal of competent jurisdiction, the remainder of this Article and the application of such provision to other Persons or circumstances shall not be affected by such holding. In case of such an event, this Article and all of its remaining provisions shall, in all other respects, continue to be effective. In the event the law invalidating such an Article provision is subsequently repealed, rescinded, amended or is otherwise changed so that the provision which had

previously been held invalid or unenforceable, no longer conflicts with the laws, rules or regulations then in effect, the previously invalid or unenforceable provision shall return to full force and effect.

- c. Performance Bond. All Tower owners shall purchase and maintain for the benefit of the Village, a performance bond to assure that the terms and conditions of this Article are complied with, including repair and removal.
- (1) The performance bond shall be in a form approved by the Village Solicitor and shall be in an amount, no less than 25% of the construction value of the Towers as estimated by the Village at the time of issuance of a building permit.
 - (2) The Village may draw upon the performance bond for recovery of any costs or damages it incurs arising from a Tower owner's violation of this Article or the abandonment or discontinuance of use of a Tower.
 - (3) The requirement to maintain a performance bond under this section shall cease only upon a written determination by the Village that the maintenance bond is no longer necessary.

ARTICLE 5.14:
OFF-STREET PARKING AND LOADING FACILITIES

- 5.14.1 Purpose.
5.14.2 General specifications and requirements.
5.14.3 General development standards
5.14.4 Required number of parking spaces by use.
5.14.5 Required number of loading spaces by use.

5.14.1 PURPOSE.

The purpose of requirements for off-street parking and loading facilities is to promote the orderly development of land within the Village and to promote the safety of residents of the Village by assuring the orderly handling of vehicles and vehicular traffic.

5.14.2 GENERAL SPECIFICATIONS AND REQUIREMENTS.

- a. In all districts, at any time any building, structure or use of land is constructed, enlarged, or increased or changed as to capacity, use or occupancy, there shall be provided for every use off-street parking spaces for automobiles in accordance with the provisions of this Article 5.14. A parking plan shall be required for all uses except for single or two-family residential uses. The parking plan shall be submitted to Planning Commission as part of the site plan or development plan review process and to the Zoning Officer as a part of the application for a Zoning Certificate. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage plans and perimeter screening/landscaping as appropriate.
- b. Parking Space Dimensions. Parking spaces shall conform to the following minimum area and dimensions, exclusive of driveways and aisles:

		Minimum Width (Feet)	Minimum Length (Feet)
1. Ninety degree parking	9	19	
2. Parallel parking	7	23	
3. Sixty degree angle parking	9	19	
4. Forty-five degree angle parking	9	19	
5. Excess parking spaces above the minimum required by this chapter may be designed to accommodate small cars for uses having little turnover such as apartments, general business offices or industrial plants. Commercial uses, medical offices and other high turnover uses are not permitted to designate small car spaces. The minimum width and length of such spaces shall be 8' x 17'. Approved small car spaces shall be grouped and clearly marked rather than scattered throughout the lot.			

c. Access.

1. Each site shall have an access drive into the parking area with a minimum width as follows:

<u>USE</u>	<u>MINIMUM DRIVEWAY WIDTH (FEET)</u>
Single Family	10'
Two-family	16' (combined drive)
All other uses	12' (one way) 20' (two way)

2. Parking aisles adjacent to parking spaces shall contain the following minimum widths:

<u>PARKING PATTERN</u>	<u>MINIMUM AISLE WIDTH (FEET)</u>
90 degree	22'
60 degree	18'
45 degree	12' (one way) 22' (two way)
Parallel	12' (one way) 22' (two way)

3. All parking spaces, except those required for single or two-family dwellings, shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.

5.14.3 GENERAL DEVELOPMENT STANDARDS.

a. Location of Parking Spaces.

1. Parking spaces for single and two-family residential uses shall be located on the same lot as the use which is to be served.
2. Except as permitted in the C-1 District, and in the instance of joint parking facilities authorized by this section, parking spaces for all nonresidential uses shall be located on the same lot as the use which is to be served.
3. Parking spaces for multiple family uses, dormitories or similar residential uses shall be located not more than 250 feet from the principal use served.
4. No commercial vehicles weighing more than two tons shall be parked in any residential district except for service or delivery purposes.

b. Required Improvements for Parking Areas.

1. All off-street parking areas for all uses shall be paved with all-weather paving, adequately drained, and lighted except for:
 - A. Permitted uses in the R-1, R-2, and R-3 Districts
2. Lighting shall be arranged to reflect the light away from adjoining property.
3. The owner of a lot used for parking and loading shall maintain the parking area in good condition to be free of holes, trash and debris. The demarcation of parking spaces shall be adequately maintained either through periodic restriping or other means.
4. Safe zones and walkways shall be provided in parking areas within the C-1 and I Districts.
5. The submission of a lighting plan shall be required for all non-residential land uses. Lighting shall be provided for security purposes.

c. Traffic Control Devices.

1. Entrances, exits and directional signs shall be provided where practicable, and signs shall conform to Village sign regulations.
2. All parking areas having a capacity in excess of ten vehicles shall be striped.
3. When a parking area extends to a property line, or where the extension of a vehicle beyond the front line of the parking space would interfere with drive or aisle access, wheel blocks or other devices shall

be used to prevent such extension.

- d. Determination of Required Spaces. In computing the number of parking spaces required by this chapter, the following rules shall apply:
 - 1. Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross horizontal area of all the floors of a non-residential building measured from the faces of the exterior walls.
 - 2. Where seating capacity is the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated on each eighteen (18) lineal inches of benches, or pews, except where occupancy standards are set by the fire marshal.
 - 3. Fractional numbers shall be increased to the next whole number.
 - 4. The parking space requirements for a use not specified in this chapter shall be determined by the Planning Commission or by the Zoning Officer if the use is substantially similar to another use for which a standard has been established.
- e. Joint or Collective Parking Facilities.
 - 1. Where two or more uses are provided on the same lot, the total number of spaces required shall equal or exceed the sum of the individual requirements. In computation, a fractional space shall be rounded to the next highest number.
 - 2. All required parking spaces shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not farther than 250 feet from the building served.
 - 3. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by legal counsel, approved as to content by Planning Commission and filed with the application for a zoning certificate.
 - 4. Upon prior approval by the Planning Commission of the terms of a written agreement entered into by owners of property in the Village providing for the joint use of parking spaces, two or more nonresidential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap.
- f. Parking Spaces for Handicapped Persons.
 - 1. Parking spaces for the handicapped shall meet the requirements of all applicable requirements, including but not limited to the Americans With Disabilities Act. Each such space may be included in the computation of required number of spaces by use.

5.14.4 REQUIRED NUMBER OF PARKING SPACES BY USE.

Off-street Parking spaces shall be provided according to the following schedule:

- a. Residential Uses.
 - 1. Single-family dwelling and two family dwelling: two (2) spaces per dwelling unit. Also, each single-family dwelling shall have, at a minimum, an attached or detached single car garage, which garage space(s) shall not be counted as part of the aforesaid two (2) required off-street parking spaces.
 - 2. Multi-family: two (2) spaces per dwelling unit, plus guest parking at a rate of one (1) space per four (4) units.
- b. Special Residential Uses.
 - 1. Dormitories, convents and monasteries: one (1) space per six (6) residents plus one (1) space per employee.
 - 2. Bed & Breakfast: two (2) spaces plus one (1) space per guest room.
 - 3. Corporate guest houses: one (1) space per two (2) bedrooms, plus one (1) space per employee.
 - 4. Family and group care homes: one (1) space per four (4) residents plus one (1) space per employee.
 - 5. Retirement communities and senior citizen housing: three-fourths (3/4) space per dwelling unit, plus one

- (1) space per employee.
- c. Institutional and Recreational Uses. All such uses shall provide the total number of spaces required for the specific combination of recreation facilities provided, based on the following:
1. Cemeteries: one (1) space per employee, plus one (1) space per four (4) seats in the chapels.
 2. Community centers, libraries, museums, art galleries, botanical gardens and other establishments of historical, education and cultural interest; one (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee on the largest work shift.
 3. Daycare centers and nursery schools: one (1) space per employee, plus one (1) space per five (5) children at capacity, plus a drop-off area at the main entrance sufficient to accommodate four (4) automobiles with 20 or fewer children plus one additional vehicle for each additional 10 children served. The drop-off area may either be in the form of spaces parallel to an access drive adjacent to the building or additional parking spaces beyond code requirements.
 4. Elementary and junior high schools: one (1) space per employee, plus one (1) space per two (2) classrooms.
 5. High schools: one (1) space per employee, plus one (1) space per five (5) students at capacity.
 6. Hospitals and medical centers: one (1) space for every two (2) beds, plus one (1) space for every staff and employee on the largest work shift.
 7. Junior colleges, colleges and universities: one (1) space for every three (3) students, plus one (1) space per employee.
 8. Places of worship: one (1) space per four (4) seats at maximum capacity.
 9. Public offices and buildings: one (1) space for every two hundred fifty (250) square feet of gross floor area.
 10. Nursing and personal care facilities, including nursing homes, extended care facilities, rest homes and convalescent homes: one (1) space per six (6) beds, plus one (1) space for each staff and employee on the largest work shift.
 11. Recreation uses, indoor and outdoor:
 - A. Auditoriums, arenas, stadiums, gymnasiums, and playing fields with stands: one (1) space for every four (4) seats at capacity.
 - B. Golf courses: ten (10) spaces per hole, plus fifty percent (50%) of the spaces otherwise required for any accessory use (e.g., restaurants, pro shops).
 - C. Parks, playgrounds, nature areas and other open space: one (1) space for every five (5) users at maximum capacity, except that the Planning Commission may waive the parking requirements for neighborhood parks under five (5) acres in size.
 - D. Recreation centers: one (1) space for every two hundred fifty (250) square feet of floor area, except those designed for use exclusively by senior citizens or youth under age 16, in which case there shall be one (1) space for every seven hundred fifty (750) square feet.
 - E. Skating rinks: one (1) space per three hundred (300) square feet of gross floor area.
 - F. Swimming pools: one (1) space for every seventy-five (75) square feet of water surface area.
 - G. Tennis, racquetball and handball courts: indoor - four (4) spaces for each playing court; outdoor tennis courts - two (2) spaces for each court.
- In addition to the above requirements, all recreational uses shall provide one (1) space for every two (2) employees on the largest work shift.
- d. Business and Professional Offices.
1. Business and professional offices and associations: one (1) space per three hundred (300) square feet of gross floor area, but not less than two (2) spaces per office.
 2. Medical offices and clinics: three (3) spaces per treatment or examination room or chair, plus one (1) space per staff and employee, but not less than five (5) spaces per office.
- e. Retail Commercial and Service Uses.
1. Animal hospitals and veterinary clinics: three (3) spaces for each treatment area, plus one (1) space for each staff and employee, except that pet stores shall provide parking as retail commercial space.
 2. Commercial schools and studios: one (1) space for every three (3) students at capacity and one (1) space for each employee.
 3. Financial establishments, banks and savings and loan associations: one (1) space per two hundred (200) square feet of gross floor area, plus one (1) space per employee on the largest work shift, plus five (5) off-street waiting spaces per drive-in window or drive-through teller machine.

4. Funeral homes and mortuaries: one (1) space per every fifty (50) square feet of public floor area, plus one (1) space for each employee, plus one (1) space for each business vehicle.
 5. General merchandise stores and supermarkets: one (1) space for each one hundred fifty (150) square feet of gross floor area used for sales and display and one (1) space for every two hundred fifty (250) square feet of storage, warehouse and office area.
 6. Home furnishings, home improvements and equipment stores: one (1) space for each four hundred (400) square feet of indoor and outdoor sales and display area and one (1) space for each eight hundred (800) square feet of office, storage and warehouse area.
 7. Nurseries and garden supply stores: one (1) space for each employee on the largest shift, one (1) space for each two hundred (200) square feet of gross floor area of inside sales or display and one (1) space for each one thousand (1,000) square feet of exterior sales and display area.
 8. Restaurant, standard: one (1) space per one hundred (100) square feet of gross floor area, plus one (1) space per employee on the largest work shift.
 9. Specialty retail commercial, specialty food stores, personal services and commercial centers: one (1) space for every two hundred (200) square feet of gross floor area less than two thousand (2,000) and one (1) space for every two hundred fifty (250) square feet of gross floor area greater than two thousand (2,000) square feet, and no use shall have less than five (5) spaces.
 10. Business and cleaning services: one (1) space for every three hundred (300) square feet of sales and office area, plus one (1) space for every employee on the largest work shift, plus one (1) space for every company or service vehicle regularly stored on the premises.
- f. Road Service and Commercial Entertainment Uses.
1. Automobile accessories sales and installation: two (2) spaces for every service bay, plus one (1) space for each employee, plus one (1) space for every four hundred (400) square feet of sales area.
 2. Automobile service stations and auto repair, painting and body shops: two (2) spaces for each service bay, plus one (1) space for each employee and service vehicle, with a minimum of six (6) spaces.
 3. Automobile washing facilities: one (1) space for each employee with a minimum of four (4) spaces, plus four (4) off-street waiting spaces for each car washing device or stall, or eight (8) off-street waiting spaces for an assembly line type washing establishment, and two (2) parking spaces at the end of each washing bay for drying and hand-finishing vehicles.
 4. Commercial Entertainment:
 - A. Bowling alleys: five (5) spaces for each alley, plus any additional spaces required for a bar, restaurant or other accessory use.
 - B. Dance halls, bingo halls, assembly and exhibition halls: one (1) space for every fifty (50) square feet of floor area.
 - C. Drive-in theater: one (1) space for each automobile station, plus one (1) space per employee.
 - D. Game rooms and pool halls: one (1) space for every two (2) patrons at maximum capacity, plus one (1) space for every two (2) employees on the largest work shift.
 - E. Golf driving range: one (1) space per tee, plus one (1) space per employee on the largest work shift.
 - F. Miniature golf: one and one-half (1-1/2) spaces per hole, plus one (1) space per employee on the largest work shift.
 - G. Other outdoor commercial entertainment: one (1) space for every four (4) patrons at maximum capacity, plus one (1) space for every two (2) employees on the largest work shift.
 - H. Theaters, concert halls and meeting and banquet halls: one (1) space for every two and one-half (2-1/2) seats of capacity.
 5. Convenience food stores, mini-markets and carry-outs: one and one-half (1-1/2) spaces for every two hundred (200) square feet of floor area, plus one (1) space for each employee.
 6. Drive-through stores, including photo kiosks and freestanding automatic teller machines: one (1) space for each employee, plus off-street stacking space for five (5) vehicles, plus one (1) space for each two hundred (200) square feet of sales area open to the public.
 7. Fraternal and social associations and private clubs: one (1) space for every fifty (50) square feet of floor area in assembly or meeting rooms, plus one (1) space for every two hundred (200) square feet of other floor area.
 8. Hotels and motels: one (1) space per room or suite, plus one (1) space for every three (3) employees on

the largest work shift, plus one (1) space for three (3) persons to the maximum capacity of each public meeting and/or banquet room, plus fifty percent (50%) of the spaces otherwise required for accessory uses (e.g., restaurants).

9. Restaurants, fast food: one (1) space per fifty (50) gross square feet of dining space floor area, plus one (1) space per employee on the largest shift with a minimum of fifteen (15) total spaces and with off-street stacking space for five (5) vehicles for each drive-in window, with such stacking spaces to be located behind the point where a drive-in order is placed.
10. Vehicle sales and service: one (1) parking space for each eight hundred (800) square feet of floor area, plus one (1) space for each three thousand (3,000) square feet of open lot area devoted to the sale and display of motor vehicles.

g. Industrial.

1. Construction trades and contractor offices and industrial craft shops: one space for every 300 square feet of floor area, plus one space for every business vehicle.
2. Lumberyards and buildings materials sales: one parking space for each 800 square feet of floor area, plus one space for every 3,000 square feet of lot area devoted to the storage and display of building materials.
3. Manufacturing, printing and publishing establishments and laundry and dry-cleaning plants: one space for each employee on the largest work shift, plus one visitor parking space for every 10,000 square feet of floor area, plus one space for every company vehicle regularly stored on the premises.
4. Recycling center: one space for each employee or volunteer on the largest work shift, plus one parking space for each collection vehicle and two drop-off spaces for each bay and/or collection vehicle and container.
5. Warehouses and mini-warehouses: one space for every 4,000 square feet of gross floor area, plus one space per employee on the largest work shift.
6. Wholesaling facilities: one space for every 300 square feet of office and sales area, plus one space for every 4,000 square feet of warehouse and storage area, plus one space per employee on the largest work shift.

5.14.5 REQUIRED NUMBER OF LOADING SPACES BY USE.

- a. Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.
- b. Loading spaces shall conform to the following minimum dimensions:
 1. Class A space - (for semi-truck vehicles) fourteen feet minimum width, fifty-five feet minimum length, fifteen feet height clearance. The space shall not inhibit service access to neighboring facilities or loading areas.
 2. Class B space - twelve feet minimum width, thirty feet minimum length, fifteen feet height clearance, and arranged so as not to inhibit other service traffic.

c. Number of Spaces Required.

COMMERCIAL AND INDUSTRIAL BUILDINGS:

Gross Floor Area

Number and Type of Loading Space

Less than 5,000 square feet

0

Equal to or greater than
5,000 sq. ft. but less
than 15,000 sq. ft.

One Type B

Gross Floor Area

Number and Type of Loading Space

Equal to or greater than
15,000 sq. ft. but less
than 30,000 sq. ft.

One Type A

Equal to or greater than
30,000 sq. ft.

One Type A and one
Type B

For each additional 50,000
sq. ft. or fraction thereof

One Type A

OFFICE INSTITUTIONAL BUILDINGS:

Gross Floor Area

Number and Type of Loading Space

Less than 20,000 sq. ft.

0

Equal to or greater than
20,000 sq. ft. but less
than 100,000 sq. ft.

One Type A

Equal to or greater than
100,000 sq. ft. but less
than 350,000 sq. ft.

Two Type A

350,000 sq. ft. or more

Two Type A plus one
for each additional
300,000 sq. ft. or
fraction thereof

- d. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way, and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- e. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- f. Whenever there exists a lot with one or more structures on it constructed before the effective date of this chapter, and a change in use that does not involve any enlargement of a structure is proposed for such lot, and the loading area requirements of this section cannot be satisfied because there is no sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible.
- g. A loading space may occupy all or any part of any required side or rear yard. No loading or unloading shall occur in a front yard, except for structures less than 15,000 square feet.
- h. No loading space shall be located closer than fifty feet to any residential district.

ARTICLE 5.15

DEVELOPMENT STANDARDS

5.15.1 Street Lights

5.15.2 Miscellaneous

5.15.3 Sidewalks

5.15.4 Utilities

5.15.5 Storm Sewer and Drainage

5.15.6 Sanitary Sewer

5.15.7 Driveways and Garages

5.15.8 Streets and Right-of-Ways

5.15.9 Dedication of Land For Public Purposes (Open Space)

5.15.10 Flood Plain Regulations

The purpose of this article is to present the development philosophies and standards of the Village of Ashley. The Village understands the need and benefit of development. The Village also understands the concerns and problems if that development is not managed properly. It is the Village's intent in the following pages to present the standards by which orderly, self-sustaining and beneficial development can proceed, being development that places a minimal financial burden on the existing Village residents yet is profitable for the developer.

5.15.1 Street Lights - Intent: to provide adequate, attractive, but not excessive lighting along public roads.

- a.. Street light standards, as selected by the Village, shall be provided at a maximum of 350' spacing and at each intersection..

5.15.2 Miscellaneous

- a. Open space fees are to be charged for the construction of parks and public green spaces.
- b. The developer shall pay the fees for having all of his or her submissions and plans reviewed by the Village's engineering consultant.

5.15.3 Sidewalks - Intent: to provide a place for pedestrian traffic other than roadways.

- a. Sidewalks shall be provided across the street frontages of all properties. In the event of corner lots, sidewalks shall be extended along both street frontages.
- b. Sidewalks shall be 5 feet wide.
- c. Sidewalks shall conform to all ADA access requirements.
- d. Sidewalks shall connect to adjoining sidewalks, where existing.

5.15.4 Utilities- Intent: to adequately service the residents, businesses and community services of the Village while minimizing the visual impact resulting from the utilities. Additionally, to provide adequate services through the Village, as well as to the Village limits to provide adequate capacities for future expansion.

- a. All utilities shall be run underground.
- b. Main supply lines or lines serving more than 1 housing unit shall be in rights-of-ways or easements granted for utility service.
- c. All utility development plans shall be approved by the Village.
- d. As-built drawings shall be provided by the developer at the time of completion for all utilities. This include surface drainage routes.

5.15.5 Storm Sewer and Drainage - Intent: to require developers to handle storm water that results from development in a manner that does not financially impact the existing Village residents.

- a. Developers shall be responsible for dealing with all runoff in excess of that which existed before development. Detention requirements shall comply with the Village's Regulations For The Procedures And

Minimum Requirements For Developing Land In The Village Of Ashley, Ohio, Ordinance Number 2002-01, as amended.

- b. A payment shall be required in lieu of on-site detention. The total fee shall be equal to that of the projected cost for the land and construction of an on-site detention/retention basin.
- c. All drainage course ways serving two or more lots shall be in dedicated easements or rights-of-ways.
- d. Drainage easements shall be at least 20 feet wide unless along a street right-of-way. Drainage easements along street rights-of-ways shall be a minimum of 10 feet wide.
- e. All drainage development plans shall be approved by the Village engineering consultant.

5.15.6 Sanitary Sewer - Intent: to have development pay for the burdens placed on the sewer system as a result of that development.

- a. Connection to main line shall be made at the time of mainline construction with the appropriate wye connector if at all possible. Connections to an existing line shall be made with an approved flexible connection.
- b. All sanitary sewer development plans shall be approved by the Village and shall comply with the Village's Regulations For The Procedure And Minimum Requirements For Developing Land In The Village Of Ashley, Ohio, Ordinance Number 2002-01, as amended.
- c. As built drawings are to be provided by the developer at the completion of construction of all sewers.

5.15.7 Driveways and Garages- Intent: to maximize the amount of residents and parking available to visitors by reducing onstreet parking by homeowners.

- a. All newly constructed housing units shall have a driveway. For single family dwellings and two-family dwelling, the driveway shall provide parking for at least 2 cars per dwelling unit without any car being in a right-of-way. For any single family dwelling there shall also be, in addition to the 2 car driveway requirement, a minimum of a sing car garage.
- b. Common access driveways for more than two housing units are not permitted. However, common access driveways shall not be used as a method to eliminate or reduce a lot's required lot width at the lot's Front Lot Line.
- c. Driveways, unless stated otherwise, shall be constructed of stone, asphalt, concrete or brick.
- d. Driveway culvert pipes shall be of concrete or other material as approved by the Village Engineer and sized to conduct all runoff without backup.
- e. Driveway location shall be shown on plan submittal.

5.15.8 Streets and Right-of-Ways -

- a. Right-of-ways for streets are to be a minimum of 60 feet in width, or as otherwise provided in the Village's Regulations For The Procedure and Minimum Requirements For Developing Land In The Village Of Ashley, Ohio, Ordinance No. 2002-01, as amended.
- b. Streets and right-of-ways shall be arranged in a grid pattern. The maximum distance between the centerlines of intersections, which forms the Village-grid blocks, shall be 750', or as otherwise provided in the Village's Regulations For The Procedures and Minimum Requirements For Developing Land In The Village Of Ashley, Ohio, Ordinance No. 2002-01, as amended.

5.15.9 Dedication Of Land For Public Purposes (Open Space)-

Intent: to provide the residents of the Village with open space/recreational opportunities. Dedicated land for Open Space is for use primarily and defined as civic use areas (i.e. Village Square, bandstands), active recreational uses (i.e. ball fields, tennis courts, and play structures), and passive recreational uses. Passive recreational uses (i.e. picnic areas, walking and biking trails) may be located in the flood plain.

All land that is subjected to the Village's Regulations For The Procedures and Minimum Requirements For Developing Land In The Village Of Ashley, Ohio, Ordinance Number 2002-01, as amended, and involves a subdivision, a multi-family development of 4 or more dwelling, or a mobile home development, shall meet the following standards and requirements for Open Space:

- a. A minimum of 15% of the total gross acreage shall be provided as designated open space, arranged and restricted by easement, covenant, deed or dedication. This open space shall not include minimum yard space requirements or off-street parking area requirements. The dedicated street right-of-way shall not be considered open space. The establishment of the open space shall promote a means of properly maintaining the open space.
- b. Any land to be dedicated as a requirement of this section shall be reasonably adaptable for park, civic or recreation purposes and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of the proposed areas shall include size and shape, topography, geology, tree cover, access and location.
- c. A reduction or elimination of the land dedication requirement may be considered where the owner of the development is providing certain recreational facilities or in cases where lower density development is anticipated.
- d. Cash-in-lieu of the required land dedication for open space may be required, at the sole discretion of the Village, provided that the Village has determined a cash-in-lieu rate. To determine such a rate, Council will pass a resolution or ordinance which shall be either (1) based upon the mean market value of vacant lots in the Village of Ashley that have public improvements completed thereon or adjacent to such lots, with such market value being provided by the Delaware County Auditor's Office, or (2) based upon the recommendations of a qualified land appraiser retained by the Village to research recent real estate transactions and determine an estimated average of land per acre with public improvements completed thereon. The decision to accept cash in lieu of open space shall be made in regard to the availability of park and recreational facilities and by the amount of population generated by the development.
- e. The Planning Commission shall recommend to Council approval, approval with modifications, or disapproval of the applicant's open space or cash-in-lieu proposal. Council shall then approve, approve with modification, or disapprove Planning Commission's recommendation. A two-thirds majority of Council is required for Council to reverse or modify a recommendation by the Planning Commission. A failure to obtain a two-thirds majority of Council for reversing or modifying the Planning Commission's recommendation shall result in the Planning Commission's recommendation being adopted.

5.15.10 Flood Plain Regulations- Intent: Due to certain areas designated by the Federal Emergency Management Agency (FEMA) as being in the flood plain, it is necessary to institute the following provisions to protect human life and health, to minimize expenditure of public money for costly flood control projects, and to minimize damage to property.

- a. No structure shall be permitted within the flood plain and no use shall be permitted within the flood plain which will adversely affect the efficiency or which will unduly restrict the capacity of the channel or floodway of any tributary to the main stream, drainage ditch or other drainage facility or system.
- b. Open space uses will be permitted within the flood plain to the extent that they are permitted within the zoning district controlling use of said land and provided they do not require structures, fill or storage of material or equipment which would adversely affects the efficiency or which will unduly restrict the

capacity of the channel or floodway or any tributary to the main stream, drainage ditch or other drainage facility or system.

- c. No fill shall be deposited within the flood plain without permission from the Village Council. A showing must be made that such fill is for some beneficial purpose and will be protected against erosion by rip-rap, vegetation or bulkheading.
- d. The areas designated by the Federal Emergency Management Agency (FEMA) as flood plain areas shall be regulated by these Flood Plain Regulations (5.15.10).

ARTICLE 5.16

NON-CONFORMING USES AND STRUCTURES

5.16.1 Continuance

5.16.2 Restoration

5.16.3 Extension and Substitution

5.16.4 Non-conforming Lots

5.16.1 CONTINUANCE

The existence of any dwelling, building or structure and the use of any land or premises, as existing and lawful at the time of enactment of this Zoning Ordinance or any amendments hereto, may be continued, although such structure or use does not conform with this Zoning Ordinance or any amendments hereto, provided that if any such non-conforming use is abandoned or discontinued for two years or more, any future use shall be in conformity with this Zoning Ordinance and any amendments hereto.

5.16.2 RESTORATION

When a structure, the use of which does not conform to the provisions of this Zoning Ordinance, is damaged by fire, explosion, flood, wind, earthquake, or other calamity outside the control of the owner or occupant, the owner or occupant has the right to replace the damaged structure provided that such restoration shall be commenced within ninety (90) days of such calamity and completed within one hundred eighty (180) days of commencement of construction, and restoration is primarily in kind and size of the damaged structure. All replacement structures shall comply with all other governable codes, including but not limited to the Village Building Code.

5.16.3 EXTENSION AND SUBSTITUTION

Except as set forth in Section 5.16.2, no non-conforming structure or use may be completed, restored, reconstructed, extended or substituted except upon the granting of a conditional use permit issued by the Board of Zoning Appeals pursuant to Article 5.24 and this section.

The Board of Zoning Appeals shall have the power to permit such completion, restoration, reconstruction, extension or substitution of the non-conforming use or structure as follows:

- a. A non-conforming use of less objectionable nature may be substituted for an existing non-conforming use.
- b. An existing, legal non-conforming use which occupied only a portion of an existing structure or premises may be extended to additional portions of such structure or premises, provided any extension shall not be more than twenty-five percent (25%) greater in size as it existed at the time of passage of this Zoning Ordinance and such extension will substantially make the non-conformance use more in character with its surroundings.
- c. The alteration, reconstruction, or substitution of a non-conforming use, structure, or sign, may be permitted, provided that such will make the non-conforming use, structure, or sign substantially more in character with its surroundings and meets all setback requirements of said district.

The Board of Zoning Appeals may impose such requirements and conditions as the Board may deem necessary for the protection of adjacent properties and the public interest.

5.16.4 NON-CONFORMING LOTS

The construction of a conforming structure and/or the conduct of a permitted use shall be allowed on any lot of record at the time of the enactment of this Ordinance, which has an area and/or lot width less than that required for such structure or permitted use in the Zoning District in which the lot is located. Variance of any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Board of Zoning Appeals in accordance with Article 5.25. Such non-conforming lots must be in separate ownership and not have continuous frontage with other land in the same ownership on the effective date of this Zoning Ordinance or any amendments hereto. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located.

ARTICLE 5.17 **SIGNS**

- 5.17.1 Purpose**
- 5.17.2 Definitions**
- 5.17.3 Permit Required**
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5.17.1 PURPOSE

The purpose of this Article is to protect the general health, safety, morals and welfare of the community by providing an instrument for protecting the physical appearance of the community and for encouraging high quality, effective outdoor graphics for the purpose of navigation, information and identification. Specifically, it is the intent of this Article to provide businesses in the Village with equitable sign standards in accord with fair competition and aesthetic standards acceptable to the community, to provide the public with a safe and effective means of locating businesses, services and points of interest within the Village, and to provide for a safe vehicular and pedestrian traffic environment. This Article is based on the premise that signs are as much subject to control as noise, odors, debris and other similar characteristics of land use, that if not regulated, can become a nuisance to adjacent properties or the community in general, or depreciate the value of other properties within the community. It is also the intent of this Article, as with the entire Village of Ashley Zoning Ordinance, to guarantee equal treatment under the laws through accurate record keeping and consistent enforcement.

5.17.2 DEFINITIONS.

For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- a) **ABANDONED SIGN.** A sign associated with an abandoned use, a sign that remains after the termination of the business, or a sign on its immediate premises not adequately maintained and not repaired within the specified time under order of the Zoning Inspector or his designee.

- b) **ANIMATED SIGN.** Any sign that uses movement or changes of artificial and natural lighting or noise to depict action or create a special effect or scene.
- c) **ATM (AUTOMATED TELLER MACHINE).** An electronically operated device used to conduct financial transactions on site, by means of direct computerized access. Such devices may be accessible by automobile and/or pedestrians.
- d) **BANNER.** A nonrigid cloth, plastic, paper, or canvas sign typically related to a special event or promotion, that is cultural, educational, charitable, or recreational in its function, under the sponsorship of a for-profit establishment or business, or a nonprofit or religious organization.
- e) **BENCH SIGN.** Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public roadway.
- f) **BILLBOARD.** An off-premise sign directing attention to a specific business, product, service, entertainment or other activity sold, offered, or conducted off-site.
- g) **BUS SHELTER SIGN.** Any sign painted on or affixed to any bus shelter.
- h) **CHANGEABLE COPY SIGN.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.
- i) **CHANNEL LETTERS.** The outline of a letter, border, or similar object with a vertical side wall to confine the lighting on the face either to restrict vision at an angle or to prevent light spillage over adjacent areas.
- j) **COMMUNITY ACTIVITY.** An activity that is open to the general public and sponsored by a nonprofit or religious organization that is educational, cultural, or recreational in function. Charitable events sponsored by for-profit organizations are also considered community activities. Examples of a community activity are a school play or a church fair.
- k) **DEVELOPMENT SIGN.** A temporary sign indicating such things as the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the development, structure, or project. This includes both private or public projects.
- l) **DIRECTIONAL SIGN.** A temporary or permanent sign that provides information regarding location, instructions for use, or functional/directional data.
- m) **ELECTRONIC SCOREBOARD.** An electronically-controlled changeable copy sign used to display scoring information for sporting events. Such signs are located on the sports field.
- n) **ENTRY FEATURE SIGN.** An on-premises ground-mounted sign that graphically identifies a residential subdivision and/or multifamily development. For commercial properties, see **JOINT IDENTIFICATION SIGN**.
- o) **ESTABLISHED GRADE LINE.** The average finished grade for the area of the site where the sign is to be located, provided however that the height of the sign shall not be artificially increased by use of mounding. All references to sign height are from the established grade line unless otherwise noted.
- p) **EXTENSION.** A wall or other structure which is connected to and extended from a building.
- q) **FLAG.** Any fabric or bunting containing the officially recognized and adopted colors, patterns, or symbols used as the official symbol of a government, political, or corporate entity.

- r) **FLASHING SIGN.** Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.
- s) **FOR SALE/FOR LEASE SIGN.** A sign indicating the sale, rental, or lease of a structure or property.
- t) **FREE-STANDING SIGN.** See **GROUND SIGN.**
- u) **GAS-INFLATABLE SIGN/DEVICE.** Any device which is capable of being expanded by any gas and used on a permanent or temporary basis to attract attention to a product or event. This definition includes both hot and cold-air balloons tethered or otherwise anchored to the ground.
- v) **GOVERNMENTAL SIGN.** A sign erected and maintained pursuant to and in discharge of any governmental functions or required by law, ordinance, or other governmental regulations.
- w) **GROUND SIGN.** Any sign which is physically attached to a foundation. These are commonly known as free-standing, pole, pylon, or monument signs.
- x) **HOSPITAL.** Any medical facility that is capable of retaining patients overnight.
- y) **ILLUMINATED SIGN.** Any sign lighted by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.
- z) **INFORMATION SIGN.** A sign displaying necessary information for the convenience and safety of residents and visitors, and containing no advertising.
- aa) **JOINT IDENTIFICATION SIGN.** A sign that identifies the name, through type, graphics, or other symbols, of a shopping center, office park, industrial park, or other building complex containing three or more uses on the same lot, allowed in addition to the permitted signs of the individual occupants.
- ab) **LOGO.** See **PRIMARY IMAGES** and **SECONDARY IMAGES.**
- ac) **MONUMENT SIGN.** A ground sign attached to a wall or a base constructed specifically for the display of the sign. A common example is a permanent subdivision sign.
- ad) **NONCONFORMING SIGN.** A pre-existing legal or illegal sign which does not conform to the standards set forth in this code.
- ae) **OPEN HOUSE.** A temporary public showing of a structure available for sale, rental, or lease.
- af) **PENNANT.** A flag or banner longer in the fly than in the hoist, usually tapering to a point.
- ag) **PERMANENT SIGN.** Any permitted or legal nonconforming sign intended to remain in place until a change of occupancy occurs. A permanent sign must be securely attached or installed upon a building, structure, or the ground.
- ah) **POLE SIGN.** See **GROUND SIGN.**
- ai) **POLITICAL SIGN.** A sign concerning candidates for elective office, public issues and similar matters to be decided by the public at an election.
- aj) **PORTABLE SIGN.** Any sign that is designed to be or capable of being moved or transported, and not permanently affixed or attached to any building, structure, or grounds.
- ak) **PRIMARY IMAGE.** The name of the use or business identified on a sign. The primary image must be displayed in the text.

- al) **PRODUCT SIGN.** A sign typically located in a window, advertising a product or service offered by a business.
- am) **PROJECTED IMAGE.** An image projected into a building, structure, or sign.
- an) **PROJECTING SIGN.** A sign that is wholly or partly dependent upon a building for support or suspended from a pole attached to a building. Such signs must be perpendicular to the building face upon which they are attached.
- ao) **PROMOTIONAL SIGNS.** A temporary sign that provides information regarding time, place, and the like of a special event, community activity or similar activity.
- ap) **PYLON SIGN.** See **GROUND SIGN.**
- aq) **RACEWAY.** An elongated metal enclosure used to mount individual or replacement of materials or parts. Refacing does not refer to replacing the entire sign structure or the removal of the sign.
- ar) **ROOF LINE.** The uppermost line or point of the façade or parapet of a flat roof structure, or the lower edge of an eve, gable or rake of a sloped roof structure.
- as) **ROOF SIGN.** Any sign erected on or above the roof line of a building.
- at) **SANDWICH BOARD SIGN.** A sign with two hinged boards which can be placed on the ground.
- au) **SECONDARY IMAGE.** Any and all text, graphics, or images displayed on a sign in addition to the name of the use or business, including but not limited to pictorial representations, tag lines, products and phone numbers.
- av) **SECTION.** In the text, the term **SECTION** refers to the Arabic numeral under which it appears in this Article.
- aw) **SETBACK.** The distance from the property line and/or right-of-way line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line and/or right-of-way line.
- ax) **SIGN.** A sign is defined as any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, or part thereof, whether permanent or temporary, which is affixed to, painted on, represented directly or indirectly upon, or projected onto a building, structure, lot, or other device, whether mobile or affixed to the ground, and which directs attention to any object, product, place, activity, person, institution, organization, or business. This definition includes all signs visible from any public right-of-way or adjacent property, including interior signs oriented towards the exterior façade of any building or structure as well as back-lighted translucent panels or strip lighting affixed to any wall or roof where any such panels or lighting serves to identify and attract attention rather than illuminate space for human activity.
- ay) **SIGN FACE.** The surface intended for display of information on the sign
- az) **SIGN STRUCTURE.** The supporting unit of a sign face, including but not limited to frames, braces and poles.
- bb) **SPECIAL EVENT.** A special event or activity that is open to the general public and is educational, cultural or recreational in function. An example of a special even is the Ashley Corn Show.
- bc) **STREAMER.** A ribbon-shaped or cord-like rope which may have pennants and/or banners attached and is stretched or hung between two or more supports.

- bd) **TRAILER SIGN.** Any sign which is attached to, supported by, or is part of a structure which is designed to move on trailer wheels, skids, or other similar devices, or transported, pushed, or pulled by a motor vehicle.
- be) **TREE LAWN.** That portion of a public right-of-way lying between the back face of the curb and the leading edge of the sidewalk.
- bf) **WALL SIGN.** Any sign attached to or erected against the inside or outside wall of a building or structure, with the exposed display surface of the sign in a plane parallel to the plane of the building or structure and extending less than 14 inches from the building or structure.
- bg) **WINDOW SIGN.** Any signs, posters, symbols and other types of identification or information about the use or premises directly attached to the window of a building or erected on the inside of the building and visible from any public right-of-way or adjacent property.

5.17.3 PERMIT REQUIRED.

All signs located on land within or hereafter annexed to the Village of Ashley shall comply with this Article unless specifically exempt by this Article. No person shall locate or retain any sign, or cause a sign to be located, relocated, altered, modified, or retained unless all provisions of this Article have been met. To ensure compliance with these regulations, a sign permit shall be secured from the Zoning Inspector or designee for each sign unless such sign is specifically exempt from this Article. Any sign requiring a structural steel foundation and/or electricity must obtain any required foundation and/or electric permits from the applicable building department, as well as acquire a sign permit. An application fee will be required at the time of application. A permit fee will be required when and only when the permit is approved. Fees may be paid by cash, check, or money order. No permit shall be issued until a completed application and fees have been submitted.

5.17.4 SUBMITTAL REQUIREMENTS FOR SIGN PERMITS.

When applying for a sign permit, the following materials must be submitted:

- A completed application and fee for each requested sign.
- Scale elevation drawing(s) of proposed sign(s).
- Foundation and anchoring drawing(s) of proposed sign(s).
- A dimensioned site plan showing the location of proposed sign(s) and adjacent buildings or other structures.
- For wall signs, a building elevation drawn to scale showing the proposed wall sign and the dimension from established grade to the top of the sign.
- For ground signs, a sign base landscaping plan.

5.17.5 PROHIBITED SIGNS.

The following signs or similar devices are prohibited: Off-premise signs, externally visible neon and neon look-alike signs, trailer signs, search lights, laser lights, pennants, streamers, spinners, bench signs, portable signs, roof signs, billboards, changeable copy signs (except for gasoline station price signs and drive-thru menu boards under 5.17.12), flashing signs, projected images and animated signs, signs with moving or moveable parts, and any look-alike version of any of these prohibited sign types. Projecting signs are permitted only in the Village Commercial District and Highway Commercial District. Signs on vending machines, trash bins, or other devices serving any premises shall be screened from view of any public right-of-way and adjoining private property. Neon may be used for internal illumination if totally enclosed and not externally visible.

5.17.6 PROHIBITED SIGN LOCATIONS

Signs may not be installed in any of the following locations:

- (A) In any public right-of-way, unless specifically authorized by this Article and the Village Engineer;

- (B) In any utility easement or no-build zone;
- (C) In any public park or other public property, unless specifically authorized by this Article and the Village Engineer.
- (D) On any traffic control signs, construction signs, fences, utility poles, street signs, trees or other natural objects except as specifically authorized by this Article and the Village Engineer.
- (E) In any location where the view of approaching and intersecting traffic would be obstructed. No sign shall be located so as to interfere with the safe movement of vehicles or pedestrians entering, leaving, or crossing a public right-of-way;
- (F) In any residential area, except as expressly permitted in this Article;
- (G) On any property without the prior authorization granted by the property owner on which any sign is to be placed.

5.17.7 COMMUNITY ACTIVITIES; SPECIAL EVENTS.

(A) A community activity or special event may be promoted by installing banners along designated light poles within the Village. The installation of these banners shall be approved by the Mayor. All banners shall be a standard size and are limited to a maximum of three colors.

(B) A community activity, as defined in 5.17.2, shall be limited to a maximum of four off-site promotional signs. These signs are considered temporary signs, and a sign permit is required before installation. A temporary sign permit may be obtained from the Zoning Inspector or his designee. The application and permit fees, as determined by Council, are included in the fee schedule available from the Zoning Inspector. On-site community activity signage being used ONLY for the duration of the event, with the exception of banners and gas inflatable devices, does not require a permit. The following requirements must also be complied with.

- (1) The event must be open to the public and be non-discriminatory. Free admission is not a requirement.
- (2) Community activity promotional signage shall not contain any commercial advertising. However, if an entity is sponsoring the event, the title of the entity may be used on promotional signage.
- (3) Each promotional sign shall not exceed six square feet in area and three feet in height.
- (4) No more than three colors shall be included on such sign(s), including black and white.
- (5) Such signs shall not be illuminated.
- (6) Promotional signs shall not be displayed more than seven days immediately preceding the event and shall be removed no later than 24 hours following conclusion of the event.

(C) A special event, as defined in 5.17.2, shall be entitled to a maximum of four off-site promotional signs and eight directional signs. These signs are considered temporary signs, and a sign permit is required before installation. A temporary sign permit will be issued for a special event only after a special event application form has been filled out and approved by the Mayor or designee. On-site special event signage being used ONLY for the duration of the event, with the exception of banners and gas-inflatable devices, does not require a permit. The event coordinator is required to complete a special event application form which includes a description of the proposed promotional and directional sign package. The location and number of signs permitted will be determined on a case by case basis, not to exceed four off-site promotional signs, and eight directional signs. The following requirements must also be complied with.

- (1) The event must be open to the public and be non-discriminatory. Free admission is not a requirement.
- (2) Special event promotional signage shall not contain any commercial advertising. However, if an entity is sponsoring the event, the title of the entity may be used on promotional signage.
- (3) Each promotional sign shall not exceed six square feet in area and three feet in height.
- (4) Promotional signs shall not be displayed more than seven days immediately preceding the event and shall be removed no later than 24 hours following conclusion of the event.
- (5) Each directional sign shall may not exceed two square feet in area and one foot in height.
- (6) Directional signs shall be installed no more than 24 hours immediately preceding the event and shall be removed within 24 hours following conclusion of the event.
- (7) No more than three colors shall be included on such signs(s), including black and white.
- (8) Such signs shall not be illuminated.

5.17.8 SIGNS NOT REQUIRING A PERMIT.

The following signs do not require a permit, but are subject to the restrictions listed in this Article unless expressly exempted. Nothing in this section shall be construed to allow any sign which is prohibited in 5.17.5, unless any such sign is expressly permitted.

(A) *Government Flags.* The flag, pennant, or insignia of any nation, state, city or other political unit. Poles for such flags must be no more than 35 feet in height, or lower if in a lower structure height district.

(B) *Corporate Flags.* Corporate flags are exempt from Article 5.17 subject to the following conditions:

- (1) No more than one corporate flag may be flown per eligible parcel of land.
- (2) The minimum parcel size shall be not less than one acre.
- (3) The corporate flag shall not be larger than a government flag, if one is flown, and in no case larger than three feet in height and five feet in length.
- (4) All corporate flags must be flown below any government flag flown.
- (5) The maximum height for a corporate flag on a separate pole shall be twenty feet as measured from established grade line to the top of the pole.
- (6) Corporate flags may display only the name, corporate emblem and/or logo of a given corporation. Slogans and tag lines are not permitted.

(C) *Government Signs.* Governmental signs shall include traffic or similar regulatory devices, official "Welcome to Ashley" signs, legal notices, warnings at railroad crossings, or any other such sign required by law. Such signs shall be consolidated with other governmental signs whenever possible.

(D) *Public Information Signs.* Public information signs established by the Village of Ashley, including "Block Watch," and other such signs, provided that they do not exceed three square feet in area. Such signs shall be consolidated with other governmental signs whenever possible. If the sign is located in the right-of-way, it must be approved by the Village Engineer.

(E) *Public Banners.* Banners established by the Village of Ashley to promote the community and village-sponsored events and located on light posts in the public right-of-way, provided that such banners are restricted to eight square feet in area and limited to three colors, including black and white.

(F) *Holiday Signs.* Signs clearly in the nature of decorations customarily associated with any national, state, local, or religious holiday. Such signs shall not cause any safety or visibility hazards.

(G) *Political Signs.* Political signs or posters concerning candidates for office, public issues or similar matters to be decided by the public at an election provided.

(H) *Street Address Signs.* Signs bearing only the street address of the properties on which they are located. For residences, such numbers must consist of Arabic numerals no less than three inches or more than eight inches in height. For non-residential uses, maximum number height varies according to front setback. If the setback is less than 100 feet, the maximum number height is 12 inches. For setbacks between 100 and 200 feet, the maximum height is 18 inches. For setbacks over 200 feet, the maximum height is 24 inches. All street address signs shall contrast to the color of the surface on which they are mounted and shall be clearly identifiable from the street and attached to the building or mailbox. Every building is required to post its street address.

(I) *Residential For Sale/For Lease Signs.* Signs indicating the sale, rental, or lease of residences, provided such signs are limited in size to seven square feet in area and three feet in height in all residential areas. Free-standing signs must be located so that they do not interfere with the safe movement of vehicular or pedestrian traffic, and all signs shall be removed within 14 days after the sale, rental, or lease has occurred. Only one such ground or window sign per street frontage is permitted.

(J) *Open House Signs.* Signs promoting an open house for property that is available for sale, rent, or lease, provided that such signs are timely installed and removed.

(K) *Window Display Signs:* Signs incorporated into the window display of a business, provided such window display signs are:

- (1) Limited to one sign per window, with the total area of each sign not exceeding 10% of the area of the window in which it is placed, or six square feet, whichever is less, and limited to an aggregate maximum of 24 square feet per business;
- (2) Placed only in ground level windows;
- (3) Erected for no longer than 30 days each. All previously displayed signage must be removed and not reinstalled for 30 days,
- (4) The name of the company or business is limited to a maximum of 25% of the actual size of the window display sign.

(L) *Private Traffic and On Site Directional Signs.* Traffic and directional signs indicating points of entry or exit for a facility or off-street parking area, provided such signs are limited a maximum of four square feet in area and three feet in height and do not interfere with safe vehicular or pedestrian traffic circulation or obstruct the view of drivers exiting onto highways or thoroughfares. Such signs may contain information such as "in", "enter", "entrance", "out", "exit", "do not enter" or similar language as approved by the Zoning Inspector or designee. Arrows indicating desired traffic movement may also be used. Such signs may contain no advertising, including logos and must be of a rectangular shape. Such signs must be on the property to which they refer and may not be placed within a public right-of-way.

(M) *Informational Window Signs.* Window signage with a total area of two square feet or less and bearing only information about entry and exit, business hours, authorized service representative information and/or discount and credit systems accepted in that establishment (e.g., American Express, MasterCard, Visa, Golden Buckeye Card). This includes product signs.

(N) *Residential Information Signs.* Information signs are allowed only when they display information necessary for the safety and convenience of residents and visitors, such as "beware of dog" and "no trespassing." Such signs may not exceed two square feet in area and may contain no advertising.

(O) *Scoreboards.* Scoreboards used for sporting events, provided that they are not visible from a public right-of-way or adjacent property.

(P) *Security System Signs.* Signs displaying information about the security system protecting building or property, provided that such signs do not exceed one square foot in area.

(Q) *Construction Trailer Signs.* Signs painted on or affixed to construction trailers, vans, or other vehicles temporarily in use on a construction site.

(R) *Barber Poles.* According to state law, all barber shops must display either a barber pole or a window sign reading "Barber." If a pole is displayed, it may not exceed 28 inches in height.

(S) *ATMs.* Signage for all ATM's (Automated Teller Machines) shall be limited to one square foot of sign area and utilize no more than three colors. ATM signage must have an opaque background. If the ATM contains a logo, it may be internally illuminated. (All external illumination shall comply with the Village of Ashley Lighting Requirements). In addition, monochromatic, non-illuminated logos of accepted credit systems, (Visa, MasterCard, American Express, etc.), are limited to less than one square foot in area and must be oriented to the user of the device only.

5.17.9 GENERAL REQUIREMENTS FOR TEMPORARY AND PERMANENT SIGNS.

(A) *Location.* Refer to 5.17.6

(B) *Size.* Sign area shall include the face of the entire display area not including the bracing, framing and structural supports of the sign, unless such support members are made part of the message or face of the sign. Where a sign has two or more display faces, the area of all faces of the sign shall be included in determining the area of the sign, unless the two faces are joined back to back, are parallel to each other and not more than 24 inches apart. The area of a sign consisting of individual letters or symbols, either free-standing or attached to or painted on a surface, building, wall, or window, shall be considered to be that of the smallest single rectangle which encompasses all the letters and symbols.

(C) *Design.*

(1) Signs shall not resemble the color, shape, design or other characteristics of any common traffic control device, directional or warning signs directed or maintained by the State, Village, or any railroad, public utility, or similar agency concerned with the protection of the public health and safety.

(2) Signs shall display as the primary image only the name of the business in text. Any additional text, graphic, or image displayed on the sign face will be considered a secondary image and shall not exceed 20% of the maximum permitted area of the sign face.

(3) All ground signs, including directional and temporary development signs, must be of a rectangular shape. This requirement does not apply when individual channel letters are used.

(4) Signs shall be limited to three colors, including black and white. The background color is considered one of the three permissible colors, unless channel letters are used, in which case the background is not considered as one of the three permissible colors.

(5) Any multifaced sign shall consistently display the same name, message and graphics on all faces.

(6) Reverse sides of signs shall be unobtrusive and blend with the surroundings.

(7) Reverse sides of all permanent signs and structural supports must be completely enclosed.

(D) *Landscaping.* The base of all permanent ground signs shall be effectively landscaped with living plant material and maintained in good condition at all times. The minimum landscaped area shall extend at least three feet beyond all faces or supporting structures in all directions. Exposed foundations must be constructed with a finished material such as brick, stone, or wood, or be screen with evergreens to the top of the anchor bolts. The landscaped area shall include all points where sign structural supports attach to the ground.

(E) *Lighting.*

(1) Signs shall be illuminated only by the following means:

(a) By a white, steady, stationary light of reasonable intensity, directed solely at the sign and/or otherwise prevented from beaming directly onto adjacent properties or rights-of-way. Light fixtures shall be screened from view by site grading or evergreen shrubs. No exposed light sources are permitted.

(b) By white interior light of reasonable intensity with primary and secondary images lit or silhouetted on an opaque background. The background must be opaque. No additional background lighting or illuminated borders or outlines shall be permitted.

(2) The level of illumination emitted or reflected from a sign shall not be of an intensity sufficient to constitute a demonstrable hazard to vehicular traffic on any right-of-way or parking lot from which the sign may be viewed.

(F) *Construction.* All signs must be constructed to meet all applicable building code regulations. All signs and related surroundings shall be properly maintained and shall not show signs of rust or corrosion, exposed wiring, chipped paint or faces, cracked, broken, or missing faces, or loose materials. The structural integrity of all sign foundations must be maintained.

5.17.10 PERMANENT SIGNS

All permanent signs shall also comply with the following requirements and with the height, area and setback requirements of Appendix B.

(A) *Wall Signs.* Wall signs are permitted for any business or use not identified by a ground sign.

(1) *Placement*

(a) Wall signs shall not protrude more than 14 inches from the wall or face of the building to which it is attached, whether or not a raceway is used.

(b) Signs may be attached to a building wall by an architecturally integrated extension which faces a street, parking lot or service drive, or attached to a canopy which projects beyond the building, provided that no part of the sign may extend above the roof or canopy.

(2) *Height.* Refer to Appendix B for height limitations according to use. The height of a wall sign is measured from the established grade line to the top of the sign.

(a) Signs may be attached to a building façade which faces a street, parking lot or service drive. It may be attached to a canopy which projects beyond the building, provided that no part of the sign extends above the roof or canopy.

(3) *Size.* The maximum allowable size for any wall sign shall be one square foot for every lineal foot of width of the building face to which the sign is attached, but shall not exceed the maximum size allowed for the use in Appendix B.

(4) *Number.* Wall signs shall be limited in number to one per building or use. For buildings or uses on corner lots having at least 100 feet of lot frontage on each of two public rights-of-way, a second wall sign is permitted facing the second right-of-way. Each sign is limited to one square foot in area for every lineal foot of width of the building face to which the sign is attached, not exceeding the installed maximum size allowed for the use in Appendix B. The distance between the signs shall not be less than two-thirds the length of the longest elevation to which the sign is attached. The distance will be measured by two straight lines along the elevations of the building, from edge of sign to edge of sign. In no case shall two wall signs be closer than 30 feet apart. The provision for a second sign does not apply to individual tenants in a multi-tenant building.

(B) *Ground Signs.* Ground signs shall include free-standing, pole, pylon and monument signs. A ground sign is permitted only when all of the following conditions are fulfilled:

(1) *Placement*

- (a) The sign is located on the property to which it refers;
- (b) The use is free-standing on its individual lot, is accessible by automobile and has off-street parking;
- (c) The use has no wall sign visible from the public right-of-way or adjacent property; and
- (d) Such signs shall not be located in such a way that they interfere with the safe movement of vehicular and pedestrian traffic.

(2) *Size.* The maximum allowable size for any ground sign shall be one square foot for every lineal foot of the width of the building face along the primary street frontage, but shall not exceed the maximum size allowed for the use in Appendix B.

(3) *Height.* Refer to Appendix B for height limitation according to use. The height shall be measured from the established grade line to the highest point of the sign or its frame/support. The height may not be artificially increased by the use of mounding.

(4) *Setback.* All ground signs must be set back a minimum of eight feet from any public right-of-way or property boundary line unless such signs are specifically exempted from this requirement; refer to Appendix B.

(5) *Number.* Ground signs shall be limited in number to one per lot or one per multiple lots if such multiple lots are devoted to one specific use or user. Buildings on corner lots having at least 100 feet of frontage on two public rights-of-way may be entitled to two ground signs, one facing each public right-of-way, if they meet the following criteria:

- (a) The total combined height of both signs shall not exceed $1 \frac{1}{3}$ times the maximum permitted height of a single ground sign for that use.
- (b) The total combined area of both signs shall not exceed $1 \frac{1}{3}$ times the maximum permitted area of a single ground sign for that use.
- (c) The two signs shall be no closer than two-thirds the length of the longest public right-of-way frontage. The distance shall be measured by drawing two straight lines, measured from the edge of each sign, forming a 90 degree angle.

(C) *Window Signs.* Window signs shall be permitted for the use specified in Appendix B, in addition to any permitted wall sign or ground sign. The sum of the area of the window signs and the area of the wall or ground sign may not exceed the maximum allowable area for the wall or ground sign.

(1) *Placement.* Window signs shall be limited to the ground floor or first floor windows only, unless a use is located in the second or higher stories of a building and such use has no first floor occupancy.

(2) *Number.* Window signs shall be limited to one sign per window.

(3) *Size.* The total area of all such window signs on any one floor shall not exceed 10% of the total window area of the establishment on any one floor, or 10 square feet, whichever is less. The maximum allowable area on the second or higher stories shall not exceed that of the first floor.

(D) *Projecting Signs.* Permitted only in the Village Commercial District and Highway Commercial District.

5.17.11 TEMPORARY SIGNS.

All temporary signs shall also comply with the following requirements.

(A) *Developments Signs.* These shall include signs indicating or promoting the development of land, facilities, or structures. Such signs must comply with the provisions of 5.17.9 with the exception that development signs shall not be illuminated. Such signs must be of a rectangular shape. No more than one such sign shall be permitted per street frontage and such signs shall be installed on the property to which they refer. For sites having at least 100 feet of frontage on each of two public rights-of-way, a second sign may be permitted facing the second right-of-way if both signs comply with the Village's Zoning Ordinance requirements. Any such sign shall not exceed 32 square feet in area and eight feet in height. They shall be placed at least 8 feet from any public right-of-way. If the site is entitled to two temporary development signs, the distance between the signs shall be not less than two-thirds the length of the longest right-of-way frontage. The distance shall be measured by drawing two straight lines from the edge of each sign, forming a 90 degree angle.

(B) *Community Activity Signs.* See 5.17.7.

(C) *For Sale/For Lease Signs.* See 5.17.8 and 5.17.12.

(D) *Political Signs.* See 5.17.8.

5.17.12 SIGNS WITH SPECIAL CONDITIONS.

For all permanent and temporary sign types listed below, permits must be obtained in accordance with 5.17.3. In addition to the requirements and regulations previously listed, the following special conditions shall apply:

(A) *Gas-Inflatable Sign/Device* Such signs are permitted only for special events in accordance with the restrictions set forth in 5.17.7. Such signs shall be located only on the site where the special event occurs. A temporary sign permit is required for all gas-inflatable devices. A scaled diagram of the device and a site plan showing where the device is to be located are required. Such signs must not be inflated with helium or any other buoyant gas. Such signs shall be securely attached/tethered to the ground so that they will not shift more than three feet in any direction during any wind condition up to 25 miles per hour. Such signs shall not be attached to or mounted on any platform, roof, or similar structure. Such signs must be placed so that they will be clear of all utility lines, roads, parking lots and adjacent property in case of collapse. Such signs may contain no commercial advertising and shall not be internally illuminated.

(B) *Banners.* Banners are permitted only for the promotion of special events or for a grand opening of a business. A grand opening occurs only when there is a change of tenant or owner or a new business is brought to a

site. All banners are subject to the following regulations:

- (1) All banners shall be located only on the site where the community event or grand opening occurs. They shall not be located in any public right-of-way or in such a way that they would interfere with the safe movement of vehicular and pedestrian traffic.
- (2) Only three colors shall be used on any banner, including black and white.
- (3) All banners shall be safely secured to a building, structure, or stake. Banners shall have ventilated faces to reduce wind load.
- (4) Banners shall not be illuminated.
- (5) A temporary sign permit is required for all banners. A scaled diagram of the banner(s), a site plan showing the location of the banner(s) and a description of how the banner(s) is to be ventilated and secured shall be submitted to the Zoning Inspector or designee. Such banner(s) shall be limited to an aggregate maximum of 30 square feet in area and shall not exceed 15 feet in height.
- (6) Banners may be erected for a maximum of 14 days.

(C) *Joint Identification Signs.* One ground sign identifying only the name of a building complex shall be permitted if there is a minimum of three users sharing the same site. Such a sign shall be permitted in addition to the permitted sign(s) of individual occupants as set forth in Section 5.17.10, but shall not list the names of these occupants. A joint identification sign shall not exceed the maximum permitted height of any ground sign identifying the individual occupants and the maximum allowable size for a joint identification sign shall not exceed one square foot for every lineal foot of the width of the building face along the primary street frontage, but not exceeding an area of 80 square feet. A second joint identification sign of the same size is permitted if the site has frontage on two streets, provided that the total lot frontage (on two streets) is 1000 feet or greater. The two signs shall be no closer than 75 feet. For all buildings or complexes designed and/or intended for multi-tenant usage, a total sign plan conforming to all the requirements of this Article must be submitted to the Zoning Inspector or designee before any sign permit for the complex or an individual tenant will be issued.

(D) *Entry Feature Signs* These shall include signs graphically identifying a subdivision and/or multi-family development. Such signs shall be limited to monument signs only. Pole and pylon signs are prohibited. Such signs must consist entirely of natural material, such as wood, brick and stone. The reverse sides of such signs shall be finished to match the fronts. The graphic area of such signs shall not exceed 20 square feet and the height of the monument shall be limited to six feet. Such signs may not interfere with the safe movement of vehicular and pedestrian traffic. If an entry feature sign is to be located within the right-of-way, it must be reviewed and approved by Village Council, the Planning and Zoning Commission and the Village Engineer. Such signage must meet Village of Ashley's lighting and landscaping requirements.

(E) *Commercial and Industrial For Sale/For Lease Signs.* Signs indicating the sale, rental, or lease of commercial or industrial real estate are limited to an aggregate maximum of 16 square feet in area and 4 feet in height for lots with less than 100 feet of street frontage and an aggregate maximum of 32 square feet in area and 8 feet in height for lots with street frontage of 100 feet or more. Individual tenant spaces within a parcel are allowed a window or wall sign no larger than 16 square feet in area. Free-standing signs must be located so that they do not interfere with the safe movement of vehicular and pedestrian traffic and must be removed within 14 days after the sale, rental, or lease has occurred. Only one free-standing sign per street frontage is permitted.

(F) *Signs for Model Homes.* A sign permit must be obtained for model home signs. Such signs shall be permitted in lieu of an exempt residential for sale/for lease sign as described in 5.17.8 shall be for a model home within a residential development. Such signs must comply with the provisions of 5.17.9 with the exception that model home signs shall not be illuminated. Such signs must be of a rectangular shape. No more than one such sign shall be permitted per street frontage and such signs shall be installed on the property to which they refer. For sites having at least 100 feet of frontage on each of two public rights-of-way, a second sign may be permitted facing the

second right-of-way if both signs comply with the Village's Zoning Ordinance requirements. Any such sign shall be limited to 8 square feet in area and 8 feet in height. The sign shall be placed at least 8 feet from any public right-of-way. If the site is entitled to two temporary model home signs, the distance between the signs shall be not less than two-thirds the length of the longest right-of-way frontage. The distance shall be measured by drawing two straight lines from the edge of each sign, forming a 90 degree angle.

(G) *Garage/Yard Sale Signs* Three such signs may be timely posted preceding the event and such signs must be timely removed after the event has ended. Such signs shall not exceed one foot in height and two square feet in area. They may be located in a public right-of-way so long as no safety or visibility hazards are created.

(H) *Nonconforming Signs*. All pre-existing illegal nonconforming signs must be removed in accordance with this Article. The Zoning Inspector shall issue an order for the sign to be removed within 15 days. The cost of removal shall be assessed to the property owner. If the property owner refuses to pay for removal of the sign, the cost of such removal shall be assessed to the property owner's tax records. All pre-existing legal signs that do not conform to the standards of this Article must be brought into conformity under any of the following conditions:

- (1) Upon any change in the use of the property for which such property was intended at the time this Article became effective.
- (2) Upon the discontinuance of the present use of property for a period of more than six months.
- (3) Upon alterations to the existing sign, the following regulations shall apply:
 - (a) Structural. No display sign shall hereafter be altered, rebuilt, enlarged, extended, or relocated except in conformity with the provisions of this Article.
 - (b) Repainting or Refacing. The repainting of existing nonconforming signs shall not be considered an alteration within the meaning of this section. Refacing an existing nonconforming sign shall not be considered an alteration as long as the refacing constitutes an exact replica of the existing sign face. The design, color scheme, translucency, graphics and text must exactly match those existing. If any portion of the replacement face(s) is not an exact replica of the original sign face, the replacement face(s) must be brought into compliance with this Article in so far as practicable.
 - (c) Existing Signs; Continuance. Except as otherwise specifically provided, nothing in this section shall require the removal or discontinuance of a legally existing nonconforming permanent display sign which is attached to the property, as distinguished from a temporary or portable sign, that is not altered, rebuilt, enlarged, extended or relocated.

(I) *Seasonal Business*. One sign per street frontage is allowed for a seasonal business. Such signs are limited to 32 square feet in area and 8 feet in height. They must be setback at least eight feet from any public right-of-way. Such signs are limited to three colors, including black and white.

(J) *Gasoline Service Stations*. Gasoline service stations, whose principal business is the sale of motor fuel, may display signs in addition to those hereinabove authorized. Such signs shall be limited to the following:

- (1) One non-illuminated, double-faced sign not exceeding five square feet on a side is permitted for each set of motor fuel pumps identifying "self service" or "full service."
- (2) Price and grade information can be displayed only on the permitted sign as set forth in Section 5.17.10, in manually changeable copy. Changeable copy for these purposes shall not include liquid crystal display (LCD), light emitting diodes (LED), or other similar electro/mechanical displays. This is the only circumstance in which changeable copy signs may be used.

(3) Signs limited to the identification of the brand name, logo or type of fuel sold and other signs as may be required by law shall be permitted on the motor fuel pumps. Fuel pumps shall not be illuminated. No signs projecting above the pumps may be permitted, except as required by law.

(4) Any other such signs as may be required by law.

(K) Drive-thru menu board signs. This shall include free-standing, pole, pylon and monument signs. A drive-thru menu board sign is permitted only when all of the following conditions are fulfilled.

- (1) The sign is located on the property to which it refers;
- (2) The sign is not visible from the public right-of-way; and
- (3) The sign does not exceed 32 square feet in size.

5.17.13 FEES AND MAINTENANCE

(A) *Fees.* Permit fees and any other fees as determined by Council are posted in a fee schedule available through the Zoning Inspector. The application fee is payable at the time of application and the permit fee is payable upon receipt of the sign permit.

(B) *Reinspection and Maintenance.* All signs for which a permit shall be issued in accordance with this Article shall be subject to the following provisions:

(1) The Zoning Inspector or designee shall reinspect each sign once every 24 months following erection of such sign to determine its continued compliance with the approved permit and plans as they were issued and to insure proper operating conditions and maintenance in accordance with this Article. The sign owner shall be solely responsible for maintaining the appearance, safety and structural integrity of the sign at all times.

(2) Whenever the inspecting official finds a sign in need of repair, support, replacement, cleaning, repainting, or any maintenance service necessary to maintain reasonable and proper appearance and public safety, he or she shall issue an order to the owner allowing 30 days for the needed repairs or maintenance. If the inspecting official determines that the existing condition of the sign creates an immediate hazard to the health or safety of the general public, he or she shall issue an order to the owner requiring the sign to be removed immediately.

(3) Failure of an owner to comply with the provisions listed above shall be cause for the inspecting official to order the permit issued for the sign void and issue an order for the sign to be removed. The cost of removal shall be assessed to the property owner. If the property owner refuses to pay for removal of the sign, the cost of such removal shall be assessed to the property owner's real estate tax records.

5.17.14 ABANDONED SIGNS.

(A) A sign shall be considered abandoned:

(1) When the sign remains after the discontinuance of a use.

(a) A business is considered to have discontinued operations if it is closed to the public for at least 90 consecutive days.

(b) A seasonal business is considered to have discontinued operations if it remains closed for 335 consecutive days.

(2) When the sign on its immediate premises is not adequately maintained and the repairs or maintenance ordered under 5.17.13 are not effected within the 30-day time limit.

(3) When the pre-existing legal sign does not conform to the provisions of this Article and is not brought into conformity upon any change in use or design as specified.

(B) Abandoned signs shall be removed by the property owner. If the property owner does not remove the abandoned sign, the following procedure shall apply: The Zoning Inspector shall determine abandonment after a public hearing before the Board of Zoning Appeals. Upon determination that the sign is abandoned, the right to maintain and use such sign shall terminate immediately and the Zoning Inspector or designee shall issue an order for the sign to be removed within 15 days by the property owner. Any abandoned sign still standing after 15 days following an order for removal may be removed by the Zoning Inspector of the Village of Ashley. If the property owner refuses to pay for removal of the sign, the cost of such removal, as determined by Village Council, will be added to the owner's real estate tax records.

ARTICLE 5.18

LANDSCAPING

5.18.1 Purpose

5.18.2 Sites Affected

5.18.3 Minimum Landscape Requirements

5.18.4 Street Tree and Public Tree Requirements

5.18.5 Plan Submission and Approval

5.18.6 Definitions

5.18.1 PURPOSE.

The purpose of this Article is to improve the appearance of vehicular use areas and property abutting public rights of way; to require buffering between different land uses; and to protect, preserve and promote the aesthetic appeal, character and value of noise pollution, air pollution, visual pollution, air temperature and artificial light glare. It is further the purpose of this Article to specifically promote the preservation and replacement of trees and significant vegetation removed in the course of land development, and to promote the proper utilization of landscaping between certain land uses to minimize the opportunities of nuisances.

5.18.2 SITES AFFECTED.

- (a) *New sites.* No zoning certificate or building permit shall be issued hereafter for any site development or the construction or improvement of any building, structure or vehicular use area except where landscaping for such development or construction has been approved as required by the provisions of this Article.
- (b) *Existing sites.* No building, structure, or vehicular use area shall be constructed or expanded unless the minimum landscaping required by the provisions of this Article is provided to the property to the extent of its alteration or expansion. In the case of a substantial expansion, the entire site must be brought into compliance with the minimum requirements of this Article. An alteration or expansion to an existing property is substantial when:
 - (1) In the case of a building or structure expansion which does not involve additional land, the square footage of the alteration or expansion exceeds 25% of the square footage of the existing building exclusive of the alteration or expansion;
 - (2) In the case of an alteration or expansion involving both an existing building or structure and additional land, and, if applicable, additional structures or buildings, the area or square footage of the expanded or altered land or structure or building, respectively, exceeds 25% of the area or square footage of the existing land or structure or building respectively, exclusive of the alteration or expansion.
 - (3) "Land," as used herein, includes land used for space, parking or building purposes.

5.18.3 MINIMUM LANDSCAPE REQUIREMENTS.

This section describes the minimum requirements that shall be met in regard to perimeter buffer landscaping for different land use areas, perimeter landscaping for vehicular use areas, interior landscaping and shading of parking lots, and landscaping for service areas.

(a) *Perimeter buffer landscaping requirements.*

- 1) *Purpose.* It is the purpose of this section to improve the appearance of vehicular use areas, to separate vehicular and pedestrian traffic areas, to reduce the effects of glare from automobile headlights, to screen the appearance of parking areas from public rights-of-ways and adjacent uses and along certain public rights-of-ways, and to provide a buffer between different land uses (property perimeter requirements).
- 2) *Opacity requirements.* Landscape materials, fences, and walls used to fulfill perimeter landscaping requirements shall be installed to provide a minimum of 50% winter opacity and 75% summer opacity between one foot above finished grade level to the top of the required planting, hedge, fence, wall, or earth mound within four years after installation.
- 3) *Perimeter buffer landscape zone.* The perimeter buffer landscape zone shall be provided by the property owner adjoining the street. When adjacent to other common boundaries, the perimeter buffer landscaping:
 - A) May be placed on either adjoining parcel, or astride the boundary, if both owned and being processed by the same owner; or
 - B) Generally shall be placed on the activity listed under Appendix C, column B and Appendix D, column B, when adjoining parcels have different owners; or
 - C) May be placed astride the boundary of adjoining parcels having different owners if a written agreement, signed by both owners, is filed with the Zoning Inspector, as a public record; or
 - D) Shall be placed on the activity or parcel being processed when adjoining property is already developed with the exception of Appendix C, lines 6 and 7; or
 - E) Shall not be required along the common boundary if the requirements of this Article have been fully complied with on the adjoining property, in fulfillment of the requirements of this Article.
- 4) *Property perimeter requirements.* For property perimeter requirements, which provide buffering between different land uses and along certain rights-of-way, see Appendix C.
- 5) *Vehicular use area perimeter requirements.* For vehicular use area perimeter requirements and for buffering of areas used by vehicles such as parking lots and driveways from adjacent property or public rights-of-ways, see Appendix D.
- 6) *Requirements conflicts.* Whenever a parcel or activity falls under two or more of the categories listed in the table of division (a)(4) or (5) hereof, only one category, that with the most stringent requirements, shall be enforced.
- 7) *Perimeter buffer landscape zone conflicts.* The required perimeter buffer landscape zone may be combined with an utility or other easement as long as all of the landscape requirements can be provided in addition to, and separate from, any other easement. Cars or other objects shall not overhang or otherwise intrude upon the required perimeter buffer landscape zone more than two and one-half feet, and wheel stops or curbs shall be required.
- 8) *Existing landscape material.* Existing landscape material shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the public approval authority, such material meets the requirements and achieves the objects of this Article.
- 9) *Landscaping at driveway and street intersections.* To insure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways and streets. Within this sight triangle, no landscape material nor parked vehicles, except for required grass or ground cover, shall be permitted. Within the sight triangle, trees shall be permitted as long as, except during early growth stages, only the tree trunk is visible between the ground and eight feet above the ground, or

otherwise does not present a traffic visibility hazard.

A) *Driveway intersection sight triangle.* At intersections of driveways with streets, the sight triangle shall be established by locating the intersection of the street curb with the driveway edge, and by measuring from this point a distance of ten feet along the driveway to a point and a distance of 20 feet along the street curb to a point and connecting these points.

B) *Street intersection sight triangle.* At street intersections, the sight triangle shall be formed by measuring at least 35 feet along curb lines and connecting these points.

(b) *Interior landscaping for vehicular use areas.* Any open vehicular use area, (excluding loading, unloading and storage areas in an industrial zone or business zone) containing more than 6,000 square feet of area, or 20 or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping may be peninsular or island types, and must include at least one deciduous shade tree per peninsula or island to be counted towards the required landscape area.

1) *Purpose.* It is the purpose of this section to break up large areas of impervious surfaces in order to provide shade and heat abatement, and enhance the appearance of the community.

2) *Landscape area.* For each 100 square feet, or fraction thereof, of vehicular use area, a minimum total of five square feet of landscaped area shall be provided.

i) *Minimum area.* The minimum landscape area permitted shall be 112 square feet with a minimum inside dimension width of seven feet, and a four-foot minimum dimension to all trees from edge of pavement where vehicles overhang.

ii) *Maximum contiguous area.* In order to encourage the required landscape areas to be properly dispersed, no individual landscape area shall be larger than 350 square feet in size in vehicular use areas that are 30,000 square feet or less and no individual landscape area shall be larger than 1,500 square feet in vehicular use areas over 30,000 square feet.

3) *Tree planting requirement.* The following number and size of trees are required within the interior landscape area. This requirement is based upon total ground coverage of structures and vehicular use areas.

a) There shall be a minimum of one tree for every 5,000 square feet of ground coverage. Trees must be at least two inches in caliper at installation.

b) Evergreen trees cannot be used to fulfill this requirement.

c) Trees shall have a clear trunk of at least five feet above the ground, and the remaining area shall be landscaped with hardwood mulch, shrubs, or ground cover, not to exceed two feet in height.

4) *Vehicle overhang.* Parked vehicles may hang over the interior landscaped area no more than two and one-half feet, as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscaped area.

(c) *Screening For Service Structures.* Service structures shall be screened in all zoning districts. For the purpose of this section, service structures shall include but not be limited to loading docks, storage tanks, dumpsters, electrical transformers, utility vaults which extend above the surface, cooling towers, roof top units and other equipment or elements providing service to a building or a site. Structures may be grouped together; however, screening height shall be based upon the tallest of the structures. Roof top mechanical units must be screened to the full height of the unit.

1) *Screening requirements.* A continuous (having 90% opacity) planting, hedge, fence, wall of earth, which would enclose any service structure on all sides is required, unless such structure must be frequently moved, in which case screening on all but one side is required. The height of the screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed 12 feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material or vehicular use area landscaping material, such walls or screening material may fulfill the

screening requirements for that side of the service structure if that wall or screening material is of sufficient height to meet the height requirements set out in this section. Plant material used to screen a service structure shall be an evergreen species which retains its needles throughout the year. Deciduous plant material at installation must be equal to, or greater than, two-thirds of the height of the service structure(s), the plant material must meet the height and opacity requirements within four years. No interior landscaping shall be required within an area screened for service structures.

- 2) *Curbs to protect screening material.* Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a curb to contain the placement of the container shall be provided within the screening material on these sides where there is such material. The curbing shall be at least one-foot from the material and shall be designed to prevent possible damage to the screening when the container is moved or emptied.

5.18.4 STREET TREE AND PUBLIC TREE REQUIREMENTS.

The planting of street trees shall be required at the time a parcel is developed or redeveloped, in all zoning districts, and in accordance with the following regulations.

- a) *Requirements for trees located on village-owned public property.* The following are requirements for the planting, pruning and removal of trees within village-owned property. For the purposes of this section, village-owned property shall include all public ways, streets, alleys, parks or other property owned by the Village of Ashley.

- 1) *Requirements.* It shall be required that all subdividers or developers plant trees along public streets of their developments in such a manner, type, quantity and location as approved through the Village approval procedure and in accordance with the following conditions:
 - A) Trees to be planted shall be street trees that have been approved by Village Council.
 - B) The minimum spacing between this and other trees shall be 45 feet for large trees, 35 feet for medium trees and 25 feet for small trees. See definition below.
 - C) The maximum spacing between trees shall be 50 feet for large trees, 40 feet for medium trees, and 30 feet for small trees.
 - D) A minimum distance between the tree and the edge of the street shall be two and one-half feet for a large tree, two feet for a medium tree and one and one-half feet for a small tree. In areas where a sidewalk exists or is proposed, the minimum distance between the tree trunk and both the edge of the street and the sidewalks should be two feet for a large tree, two feet for a medium tree and one and one-half feet for a small tree.
 - E) The tree location shall be at least 20 feet from the street intersection and ten feet from fire hydrants or utility poles.
 - F) The developers shall be required to maintain the trees for two years after the trees are planted and to replace any tree which fails to survive or does not exhibit normal growth characteristics of health and vigor within such two-year period. A two-year guarantee period shall begin at each planting and shall recommence as the trees are replaced. Upon completion of a street tree planting, the landscape contractor shall contact the Zoning Inspector for a preliminary inspection. The guarantee period shall begin after the approval of the Zoning Inspector. A final inspection shall be made at the end of the guarantee period. All trees not exhibiting a healthy, vigorous growing condition, as determined by the Village's inspection, shall be promptly replaced at the expense of the developer.
 - G) The minimum trunk caliper measured at six inches above the ground for all street trees shall be no less than one and three-quarters inches.

- b) *Tree topping.* No person shall, as a normal practice, top any tree within the public right-of-way. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter

within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

- c) *Height of limbs over sidewalks and streets.* Tree limbs extending over a sidewalk shall be trimmed to such an extent that no portion of the same shall be less than seven feet above the sidewalks. Tree limbs extending over streets shall be trimmed to such an extent that no portion of the same shall interfere with the normal flow of traffic.
- d) *Municipal rights.* The Village of Ashley shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right-of-way of all streets, alleys, avenues, lanes and other public grounds as may be necessary to insure public safety or to preserve or enhance the environmental quality and beauty of such public grounds.
 - 1) No person or adjacent property owner shall remove or trim a tree or shrub from the village owned treelawn or other Village of Ashley property without permission from Village Council.
- e) *Public tree care.*
 - 1) The Village Council or an appropriate designee shall have the right to plant, prune, maintain and remove trees, plants and shrubs or portions thereof within the rights-of-way of all streets, alleys, avenues, lanes, and other public grounds, as may be necessary to insure public safety or to preserve or enhance the health of the plant material or the beauty of such public grounds.
 - 2) The Village Council or an appropriate designee may remove or cause or order to be removed, any tree or part hereof which is in an unsafe condition or which by reasons of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

5.18.5 PLAN SUBMISSION AND APPROVAL.

Whenever any property is affected by these landscape requirements, the property owner or developer shall prepare a landscape plan for submittal to the Zoning Inspector, which shall be reviewed as part of the Site Plan, as set forth in 5.22, and be approved, approved with modifications, or disapproved according to the procedures in Article 5.22.

- a) *Landscape plan content.* The contents of the landscape plan shall include the following:
 - 1) Site plan, drawn to an easily readable scale no smaller than one inch equals 20 feet; showing and labeling by name and dimensions, all existing and proposed property lines, easements, buildings and other structures, vehicular use areas including parking stalls, driveways, service areas, square footage, etc., locations of structures on adjoining parcels, water outlets and landscape material, including botanical name and common name, installation size, on center planting dimension where applicable, and quantities for all plants used and all existing trees;
 - 2) Typical elevations and/or cross sections as may be required;
 - 3) Title block with the pertinent names and addresses, property owner, person drawing plan, scale, date, north arrow, generally orient plan so that north is to top of plan, and zoning district.
 - 4) Site grading with a minimum of one-foot contour intervals must be included.
- b) *Building permit and certificate of occupancy.* Where landscaping is required, no building permit shall be issued until the required landscaping plan has been submitted and approved by the Zoning Inspector or his designee and no certificate of occupancy shall be issued until the landscaping is completed as certified by an on-site inspection by the Zoning Inspector, unless a performance bond or irrevocable letter of credit from a banking institution shall be posted at that time.
- c) *Posting of bond or irrevocable letter of credit.* After a bond or irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within six months after the date of posting the bond or irrevocable letter of credit. A three-month extension of the planting period may be granted by the Zoning Inspector upon a demonstration by the property

owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant materials. No more than two such three-month extensions may be granted. Proceedings shall be brought against the performance bond or irrevocable letter of credit if the required landscaping plans have not been complied with by the end of the approved planting period.

5.18.6 DEFINITIONS.

For the purpose of this section, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural, words in the plural number include the singular, the word "person" includes association, firm, partnership, trust, governmental body, corporation, limited liability company, organization, as well as an individual; the word "structure" includes building; the word "occupied" include arranged, designed, or intended to be occupied; the word "used" includes arranged, designed or intended to be used; the word "shall" is always mandatory and not merely directive; the word "may" is permissive; and the word "lot" includes plot or parcel. Other words and terms have the following respective meanings:

- a) **LARGE TREE.** Any tree species which normally attains a full-grown height equal to or greater than 50 feet.
- b) **MEDIUM TREE.** Any tree species which normally attains a full-grown height of between 30 and 50 feet.
- c) **OPACITY.** An imaginary vertical plane extending from the established grade to required height of which a required percent of the vertical plane shall be visually screened from adjacent property use.
- d) **PARKING AREA OR STRUCTURE.** An off-street area or structure, for required parking or loading . spaces, including driveways, access ways, aisles, parking and maneuvering space, but excluding required front yard or public right-of-way.
- e) **PARKING LOT OR STRUCTURE.** An off-street area or structure, other than the parking or loading spaces or areas required or permitted under this section for the parking of automobiles and available to the public customarily for a fee.
- f) **PERIMETER LANDSCAPE BUFFER ZONE.** That area adjacent to any vehicular use area or along common boundaries in which the perimeter landscape requirements are met.
- g) **PERIMETER LANDSCAPING.** The use of landscape materials within the perimeter landscape buffer zone to achieve the required opacity.
- h) **SMALL TREE.** Tree species which normally attains a full-grown height of under 30 feet.
- i) **TREELAWN.** That part of a street not covered by sidewalk, bikepath, or other paving, lying between the property line and that portion of the street right-of-way that is paved and usually used for vehicular traffic.
- j) **VEHICULAR USE AREA.** Any open or unenclosed area containing more than 1,800 square feet of area and/or used by six or more of any type of vehicle, whether moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sales and service areas. Driveways are considered to be vehicular use areas.

ARTICLE 5.19

ADULT ENTERTAINMENT BUSINESS

5.19.1 Purpose

5.19.2 Definitions

5.19.3 Conditional use permit

5.19.4 Permit guidelines

5.19.1 PURPOSE.

The purpose of this chapter is to promote the public health, safety and welfare through the regulation of adult entertainment businesses. It is the intent of these sections to regulate entertainment businesses, as defined herein, so as to prevent crime, to protect the Village's retail trade and property values, and in general, to preserve the quality of life in the Village and not to suppress First Amendment rights of speech.

5.19.2 DEFINITIONS.

- a) An "adult entertainment business" means an adult bookstore, adult motion picture theater, adult drive-in motion picture theater or an adult-only entertainment establishment as further defined in this section.
- b) An "adult bookstore" means an establishment which utilizes twenty-five percent (25%) or more of its retail selling area for the purpose of retail sale or rental, or for the purpose of display by coin or slug-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices, or both, books, magazines, other periodicals, films, tapes and cassettes which are distinguished by their emphasis on adult materials as defined in this sections.
- c) An "adult motion picture theater" means an enclosed motion picture theater which is regularly used or utilizes twenty-five percent (25%) or more of its total viewing time for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this section.
- d) An "adult motion picture drive-in theater" means an open air drive-in theater which is regularly used or utilizes twenty-five percent (25%) or more of its total viewing time for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this section.
- e) An "adult-only entertainment establishment" means an establishment where the patron directly or indirectly is charged a fee where the establishment features entertainment or services which constitute adult material as defined in this section, or which features exhibitions, dance routines or gyrational choreography of persons totally nude, topless, bottomless or strippers, male or female impersonators or similar entertainment or services which constitute adult material.
- f) "Adult-material" means any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film, videotape, phonographic record or tape, other tangible thing or service, capable of arousing interest through sight, sound or touch, and:
 - 1) Which material is distinguished or characterized by an emphasis on matter displaying, describing or representing sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination; or
 - 2) Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality or human bodily functions of elimination.
- g) "Bottomless" means less than full opaque covering of male or female genitals, pubic area or buttocks.
- h) "Nude or nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- i) "Topless" means the showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.
- j) "Sexual activity" means sexual contact or sexual conduct, or both.
- k) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region or, if the person is a female, the breast, for the purpose of sexually arousing or gratifying either person.
- l) "Sexual excitement" means the condition of the human male or female genitals, when in a state of sexual stimulation or arousal.

5.19.3 CONDITIONAL USE PERMIT.

No person shall cause or permit the establishment (defined as the opening of a new business, relocation of an existing business or the conversion of an existing business) of an adult entertainment business unless authorized by the issuance of a conditional use permit in accordance with Article 5.24. In addition, an adult entertainment business shall comply with the following conditional use criteria:

- a. Adult entertainment businesses shall be conditionally permitted only in a C2 designated district and shall comply with all regulations within such district.
- b. No adult entertainment business shall be located within 1500 feet of any residential district or residential property line, church, park, preschool or school.
- c. No adult entertainment business shall be permitted in a location which is within 1500 feet of another adult entertainment business.
- d. No adult entertainment business shall be permitted within 1500 feet of any boundary of any residential district which is within an abutting local unit of government (Village, township).

5.19.4 PERMIT GUIDELINES.

An adult entertainment establishment shall be issued a conditional permit if the establishment of the business is in accordance with Article 5.19.3 and with the conditional use standards as set forth in Article 5.24.

ARTICLE 5.20: **DEFINITIONS**

5.20.1 Interpretation

5.20.2 Definitions

5.20.1 INTERPRETATION

For the purpose of this Zoning Ordinance, certain terms and words are to be defined as found in this Article. Words and terms not defined carry their customarily understood meanings. Words used in the present tense include the future tense. The singular form shall include plural and plural shall include singular. The word "shall" is intended to be mandatory. "Occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied".

Other specific terms are defined within specific sections of this Ordinance, such as in the Articles for signs, adult entertainment business and landscaping.

5.20.2 DEFINITIONS

- a. "Accessory building" or "accessory structure" means a building or structure occupied by an accessory use. Unless otherwise specifically set forth in this Zoning Ordinance, the front yard setback of an accessory building or accessory structure shall be behind the principal building on that lot.
- b. "Accessory use" means a use subordinate, secondary, incidental to, and customary in connection with the principal building or use and located on the same lot as the principal building or use.
- c. "Administrative and business office" means offices which carry on no retail trade with the public and maintain no stock of goods for sale to customers.
- d. "Agriculture" means the use of land for crops in the open, dairying, pasturage, horticulture, floriculture and necessary accessory uses.
- e. "Alley" means a public right-of-way ten (10) to twenty (20) feet wide which provides only secondary means of access to abutting property.

- f. "Automotive Repair Garage" means the repair or restoring of motor vehicles, including the repair, reconditioning or rebuilding of engines and/or transmissions; collision service (such as body, frame or fender straightening or repair); and the overall painting, undercoating or steam cleaning of vehicles. All activities must be conducted within a completely enclosed building. Persons working on vehicles owned by themselves or family are not included.
- g. "Automotive Service Station" means a building or part of a building, structure or space where the retail sale of lubricants, vehicular fuels, and motor vehicle accessories, the routine maintenance and service of vehicles and/or the making of repairs to motor vehicles are conducted. Repairs described as major repairs in "automotive repair garage" shall not be permitted. Persons working on vehicles owned by themselves or family are not included.
- h. "Basement" means a story whose floor level is more than half of its floor to ceiling height below grade level.
- i. "Building" means a structure permanently affixed to the land with one (1) or more floors and a roof supported by columns or walls, used or intended to be used for shelter or enclosure of persons, animals and/or property.
- j. "Building line" means an imaginary linear extension of that portion of the structure that is closest to and parallel to the street right-of-way which must be in compliance with the Zoning Ordinance's Yard Setback.
- k. "Business services" means any profit-making activity which renders services primarily to other commercial, institutional, or industrial enterprises, or which services and repairs appliances and machines used in other businesses.
- l. "Cemetery" means land used or intended to be used for the burial of human dead.
- m. "Certificate of occupancy" means a certificate issued by the Building Inspector, pursuant to the appropriate building code, confirming that the requirements of the building code have been met, and the building can be occupied.
- n. "Clinic, Human" means an establishment where patients who are not lodged overnight are admitted for examination and/or treatment by a physician or group of physicians.
- o. "Conditional Use" means an uncommon or infrequent use which may be permitted in specific zoning districts subject to compliance with certain standards, explicit conditions, and the granting of a conditional use permit as specified in Article 5.24 of this Ordinance.
- p. "Conditional Use Permit" is a special permit which is evidenced by a Conditional Zoning Certificate, authorizing a use which is permitted by the Zoning Regulations, subject to the issuance of such permit or conditional certificate. Thus, the special permit results in the establishment or maintenance of a use in the location and under the circumstances mandated by the Zoning Ordinance, and such permit may be granted upon whatever terms are imposed by the Board of Zoning Appeals.
- q. "Development" means the construction of a new building or other structure on a zoned lot; the relocation of an existing building on a zoned lot; the structural alteration or remodeling of an existing building; or the use of open land for construction of a building.
- r. "Drive through facilities" mean a designated place, in conjunction with a retail or service establishment, from which persons can conduct the major portion of their business without leaving their motor vehicle.
- s. "Dwelling" or "residence" means any building or portion thereof which is designed or used for residential purposes, but not including a cabin, hotel, motel, rooming house, or other such accommodation used for transient occupancy.
- t. "Essential Services" means the erection, construction, alteration, or maintenance, by public utilities or

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

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

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

w. "Front porch" means that a minimum of 50% of the linear frontage of the dwelling portion of the residential unit shall have an attached covered porch with a minimum depth of 6 feet; the frontage of any attached garage is not considered on determining the porch requirement.

x. "Frontage" or "lot frontage" means that portion of the lot that directly abuts the street right-of-way and has direct access thereto. Lot frontage shall be measured along the front lot line at the street right-of-way.

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

z. "Gasoline service station" means any building or land used for the sale, offering for sale, and/or dispensing of any vehicular fuels, oils or accessories, including the lubrication of automobiles or motor vehicles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement, body and fender repair, or painting and finishing.

aa. "Group residential facility" means a use of a dwelling unit or dwelling units within a building primarily for providing supervised room and board, and supervision in a residential setting of residents whose disabilities or states limit ability to live independently and secondly for training rehabilitation and medical services. Group residential facility does not include clinics, institutions, hospitals, convalescent nursing homes, dormitories or similar uses.

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

ac. "Home occupation" means any occupation or profession conducted primarily by immediate resident family members, which is clearly incidental and secondary to the dwelling's residential use. A home occupation must meet the standards and requirements specified for the district which the Home Occupation is located within (see Articles 5.1, 5.2 and 5.3 of this Ordinance).

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

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

af. "Institution" means an organization providing social, cultural, educational, religious or health services to member agencies, organizations, and individuals, or to the general public.

ag. "Loading space" is a space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of trucks.

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

1. "Corner lot" means any lot at the junction of and abutting on two (2) or more intersecting streets, where the angle of intersection is not more than 135 degrees. Irrespective of building orientation on a corner lot, the front yard setback for that use shall apply to all sides of a lot having frontage on a public right-of-way.
2. "Front Lot Line" means the lot line separating a lot from the street right-of-way upon which it abuts or the shortest line of a corner lot which abuts upon a street-right-of-way. Unless the context clearly indicates the contrary, it shall be construed as synonymous with street right-of-way line.
3. "Lot coverage" means the ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.
4. "Lot of record" means any lot which individually or as a part of a sub-division has been recorded in the Office of the Recorder, Delaware County, Ohio, as of the effective date of this Ordinance.
5. "Lot width" is the width of a lot measured at right angles to its depth.
6. "Minimum area of lot" means the area of a lot computed exclusive of any portion of the right-of-way or any public thoroughfare.
7. "Side lot line" means the lot line running from the front lot line to the rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot is called an interior side lot line.
8. "Rear lot line" means that lot line which is opposite and furthest removed from the front lot line. In such a lot where the side lot lines meet to the rear of the lot, or where the rear lot line is less than ten (10) feet, the minimum rear yard shall be computed from the point of intersection of the side lot lines on an imaginary line that is at equal angles from each side lot line. In the case of a corner lot, the rear lot line is opposite and furthest removed from the front lot line of least dimension.

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

aj. "Multiple-family dwelling" or "multiple-family residence" means a building designed or used as a residence or three or more families living independently, doing their own cooking therein and having varying arrangements of entrance and connecting walls.

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

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

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

an. "Off-street parking space" means any parking space located wholly off any street, alley, or sidewalk, either in an enclosed building or on an open lot and where each parking space conforms to the standards as specified in Article 5.14 of this Ordinance and other portions of this Zoning Ordinance.

ao. "Open Space" means an area open to the sky that may be on the same lot with a building and may include, along with environmental features, civic use areas (i.e. village square, band stand), active recreational uses (i.e. ball fields, tennis courts, and play structures) and passive recreational uses (i.e. picnic areas, walking and biking trails).

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

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

ar. "Principal building" means a building in which is conducted the main or principal use of the property on which such building is located.

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

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

au. "Residence" - see "Dwelling".

av. "Residential unit square footage" means the sum of the gross horizontal area of the several floors of a residential building, excluding basement, garages, unfinished attics and enclosed and unenclosed porches, measured between the interior face of walls.

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

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

ay. "Right-of-way" means a strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features required by the topography or treatment such as grade separation, landscaped areas, viaducts and bridges.

az. "Single family dwelling" or "single family residence" means a building designed for or occupied exclusively by one family, and is separated from other dwellings by open space.

bb. "Similar use" means a use not specifically listed in any of the permitted building or use classifications of any district, but which may be found analogous and added to the classification. Applications for zoning permits for uses not specifically listed in the permitted use classifications of the zoning district, which the applicant feels qualify as a similar use, shall be submitted to the Planning Commission. Prior to taking action on the inclusion of a use as a similar use, the Planning Commission shall hold a public hearing. The procedures for the advertising and hearing shall follow as per Article 5.23. Within thirty-five days (35 days) after the public hearing the Planning Commission shall determine whether the requested use is similar to those uses permitted within the specific district. The similar use shall not be listed as a permitted or conditional use in the specific or another zoning district. The similar use should create no offensive noise, vibration, dust, heat, smoke, odor, glare, traffic congestion or other objectionable influences, and should not create a danger to health or safety.

bc. "Story" That portion of the building included between the surface and the floor and the surface of the floor next above, except that the top most story shall be that habitable portion of the building included between the surface of the top most floor and ceiling or roof above.

bd. "Street" and "thoroughfare" means a public right-of-way for the purpose of vehicular travel, including the entire area within the right-of-way, whether improved or unimproved.

be. "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment of something having a fixed location on the ground, including among other things walls, buildings, porches, decks, patios, and mobile homes. "Structure" also includes a parking area except for off street parking spaces for a single family residence. "Structure" does not include fences, sidewalks, and steps leading to a door, porch, deck, or patio.

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

bg. "Two-family dwelling" or "two-family residence" means a building designed for or occupied exclusively by two families living independently, and consists of two dwelling units which are attached side by side and each unit having a separate entrance.

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

bi. "Variance" means a modification from the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of action by the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

bj. "Yard" means a required open space other than a court unoccupied and unobstructed by any structure or portion of a structure.

1. "Front yard" means that portion of a lot extending across the entire front of the lot between the side lot lines and being between the street right-of-way and the front building line.
2. "Rear yard" means that portion of a lot extending across the rear of the lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear of the building or structure.
3. "Setback" means the required minimum horizontal distance between a property line or other line and a structure, parking lot, or use.
4. "Side yard" means that portion of a lot that is located between the side lot line and the nearest building or structure.

bk. "Zoning Certificate" means an official statement certifying that a proposed building or use complies with all the provisions of this Zoning Ordinance.

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

bm. "Zoning District Map" means the Zoning Districts of the Village, together with all amendments subsequently adopted by Village Council.

bn. "Zoning Inspector" means the zoning enforcement officer of the Village, hired by the Village Council who is charged with the duty of enforcing the provisions of the Zoning Ordinance.

bo. "Zoning Ordinance" means ordinance number 97-25, as amended in ordinance number 99-31, and as subsequently amended.

ARTICLE 5.21

ADMINISTRATION AND ENFORCEMENT

5.21.1 Zoning Inspector; Appointment

5.21.2 Zoning Certificates

5.21.3 Board of Zoning Appeals

5.21.4 Planning Commission

5.21.5 Open for Future Use

5.21.6 Open for Future Use.

5.21.7 Remedies

5.21.8 Penalty.

5.21.1 ZONING INSPECTOR; APPOINTMENT

The Village Council shall appoint a qualified person to serve as Zoning Inspector who shall:

- a) Administer and enforce the Zoning Ordinance;
- b) Maintain the Zoning District Map;
- c) Serve as secretary of the Board of Zoning Appeals unless the position of secretary is otherwise designated by the Board of Zoning Appeals and approved by Council.
- d) Issue zoning certificates;
- e) Inspect structures and land to determine compliance with this Zoning Ordinance and the Zoning District Map;
- f) Notify violators of this Zoning Ordinance in writing, stating the nature of violations. Notification shall be complete upon mailing the notice by US certified mail, return receipt requested, to the owner(s) of the property at their last known address, or where no address is known by posting the notice in a conspicuous place on the property. Failure of the Zoning Inspector to notify the owner(s) of the property of a violation is not grounds for dismissal of a prosecution based on such a violation.
- g) Maintain accurate records of all amendments made to this Zoning Ordinance or the Zoning District Map, all conditional use permits and variances granted, and all zoning certificates and notices of violation issued;
- h) Issue conditional use permits and variances in compliance with this Zoning Ordinance;
- i) Recommend to the Planning Commission revocation of conditional use permits where he believes terms of permits have been violated;
- j) Issue zoning certificates after compliance with appropriate Village Ordinances.

5.21.2 ZONING CERTIFICATES.

a. Zoning Certificate Required.

- 1. No structure shall be placed upon or moved onto land, erected, constructed, reconstructed, converted, enlarged or structurally altered, nor shall any work be started upon same, nor shall such a building be occupied or used in whole or in part for any purpose, until a zoning certificate has been issued establishing compliance with the development standards and use requirements of this Zoning Ordinance and any amendments hereto, except that no zoning certificate is necessary for any structure that meets all 3 of the following: contains less than 150 sq. ft.; does not exceed 10 feet in height; and is in compliance with all building set back line regulations.
- 2. No material change shall be made in the use of any land or structure or part of a structure until a zoning certificate has been issued establishing that such change in use is a permitted use within the zoning district where the land or structure is located.

b. Application Fee. In order to defray the cost of the examination of plans and inspections necessary to provide for compliance with this Zoning Ordinance and any amendments hereto and the issuance of zoning certificates, the following zoning certificate application fees are established, to be paid to the Village by the applicant seeking a zoning certificate:

- 1. A fee for a zoning certificate sought to permit structures to be placed upon or moved onto land, constructed, reconstructed, converted, enlarged or structurally altered.
- 2. A fee for a zoning certificate sought to permit a change from one permitted use in a zoning district to another permitted use in that same zoning district.

c. Application for Zoning Certificate. Application for a zoning certificate shall be made to the Zoning Inspector on a form signed by the applicant stating that the information provided is accurate and truthful.

- 1. An applicant for a zoning certificate, which is required by 5.21.2a(l) hereof, shall provide with his application:
 - A. The name, address and telephone number of the applicant, and of the owner of the property;
 - B. An accurate legal description of the property;

- C. The existing use and proposed use of the property and the zoning district in which the property is located.
- D. Two copies of a plat plan drawn to scale and showing:
 - 1. The shape and dimensions of the property with front, rear, side yard dimensions;
 - 2. The location and dimensions of existing structures and proposed structures or alterations;
 - 3. Means for traffic access and provisions for parking;
 - 4. The location and description of trees and shrubs;
 - 5. Any additional information required by the Zoning Inspector to determine compliance with this Zoning Ordinance or the Zoning District Map.

2. An applicant for a zoning certificate required by 5.19.2a(2) hereof shall provide with his application:

- A. The name, address, and telephone number of the applicant and of the owner of the property;
- B. An accurate legal description of the property;
- C. The existing use and proposed use for the property and the zoning district in which the property is located;
- D. Means of traffic access and provisions for parking.

d. Approval or Disapproval of Application.

- 1. The Zoning Inspector shall either approve or disapprove all applications for zoning certificates within thirty days of their filing.
- 2. A zoning certificate will expire and may be revoked if the action authorized by the zoning certificate is not commenced within one year or substantially completed within two and one half years from the date of the zoning certificate.
- 3. Disapproval of an application for a zoning certificate shall be in writing, along with the reasons for the disapproval. The decision of the Zoning Inspector shall be delivered by US certified mail or personal service to the applicant. Except as provided in 5.21.2d(4) hereof, an applicant may appeal the decision of the Zoning Inspector to the Board of Zoning Appeals. Notice of appeal must be filed with the Zoning Inspector within fifteen days after the decision of the Zoning Inspector is mailed by certified mail or personal service to the applicant at the address listed on the application.
- 4. The Zoning Inspector shall disapprove any application which he determines contains information which is clearly and demonstrably false. There is no administrative appeal from such a disapproval. Should the applicant file an amended application containing correct information, it shall be treated as a new application and the Zoning Inspector shall collect the filing fee established by this section.

e. Request for Opinion. An owner of property, upon receiving a notice of an alleged violation of this Zoning Ordinance issued pursuant to Article 5.21.1(f) may request an opinion from the Board of Zoning Appeals as to the existence of a violation of this Zoning Ordinance or any amendments hereto. A request for an opinion must be filed in writing with the Zoning Inspector within fifteen days after the Zoning Inspector has completed notification pursuant to Article 5.21.1(f) and the filing of a request for an advisory opinion stays any prosecution for the alleged violation until the Board of Zoning Appeals issues its opinion.

5.21.3 BOARD OF ZONING APPEALS (713.11 ORC)

a. Organization: The Board of Zoning Appeals shall consist of five qualified electors of the Village appointed by Council. The term for each member shall be for four years, except that the term for two of the members of the first Board shall be for two years. All such members shall serve without compensation. Council shall appoint electors of the Village to fill such vacant un-expired terms as may be created from time to time by the resignation, removal or death of members of the Board of Zoning Appeals.

The Board of Zoning Appeals may adopt rules and regulations governing the conduct of its affairs that are consistent with this Zoning Ordinance or any amendments hereto. All rules and regulations shall be filed with the Clerk of Council and made available for public inspection. The Board of Zoning Appeals shall annually choose from its

membership a chairman and vice-chairman.

b. Meetings. The Board of Zoning Appeals shall meet at the call of the chairman or a majority of the members of the Board of Zoning Appeals or upon a schedule determined by the Board of Zoning Appeals. All meetings are public meetings and records of all proceedings shall be kept including the vote of each member on each issue, members present or absent, the facts of each matter considered and other minutes of the meeting. All records of proceedings shall be made available for public inspection, and copies shall be provided by the secretary of the Board of Zoning Appeals to each member of Council.

The chairman, or in his absence, the vice-chairman, shall advise Council by letter if any Board of Zoning Appeals member has absented himself from all meetings held during any period of ninety consecutive days or who has absented himself from a total of one-fourth of the regular meetings during a calendar year.

c. Procedure. Three members shall constitute a quorum of the Board of Zoning Appeals and the concurrence of at least three members is required for approving a variance, granting a conditional use permit, issuing an advisory opinion, or reversing a decision of the Zoning Inspector. All other matters may be decided by a majority of those present.

d. Powers and Duties. The Board of Zoning Appeals shall:

1. Determine appeals from decisions of the Zoning Inspector disapproving applications for zoning certificates or applications for sign permits.
2. Issue opinions when requested pursuant to Article 5.21.2(e). An advisory opinion finding the existence or nonexistence of a violation of this Zoning Ordinance shall be binding.
3. Grant or deny applications for variances from the development standards of this Zoning Ordinance and for conditional use permits. The Board of Zoning Appeals may attach such binding conditions and reservations to the variance or conditional use permit as it deems necessary to satisfy the objectives of this Zoning Ordinance or any amendments hereto.

5.21.4 PLANNING COMMISSION (713.01 ORC)

a. Organization. The Planning Commission shall be composed of five members, consisting of the Mayor, one member of the legislative authority to be elected by the legislative authority for the remainder of his or her term as such member of the legislative authority, and three (3) citizens of the Village to be appointed by the Mayor for terms of six years each, except that the term of one of the members of the first commission shall be for four years and one shall be for two years. All such members shall serve without compensation. (713.01 ORC)

b. Meetings. The Planning Commission shall meet upon any of the following: (1) at the call of the Mayor, (2) at the call of the chairperson of the Planning Commission, (3) upon a schedule determined by the Planning Commission, or (4) upon the written call of two or more of its members. Such a written call by members shall be issued at least 48 hours prior to the meeting stated in the call, and shall be delivered to all members of the Planning Commission, the Mayor, and the Zoning Inspector, or delivered to their places of residence; no matters other than those set out in the written call by members shall be considered at the meeting.

All meetings, except as permitted by law, shall be open to the public, and records of all proceedings shall be kept including the vote of each member on each issue, members present or absent, and the facts of each matter considered. All records of proceedings shall be made available for public inspection, and copies shall be provided by the secretary of the Planning Commission to each member of Council. The chairman, or in his absence the vice-chairman, shall advise Council by letter if any Planning Commission member has absented himself from all meetings held during any period of ninety consecutive days or who has absented himself from a total of one-fourth of the regular meetings during a calendar year.

c. Procedure. Three members shall constitute a quorum of the Planning Commission and the concurrence of at least three members is required to take any action

d. Powers and Duties. The Planning Commission shall:

1. Have all powers conferred by Section 735.15 of the Ohio Revised Code. This includes the right of the Commission to have control of the location of public, municipal or county

buildings to be erected on ground acquired within the limits of the Village and of the size, height, style and general appearance of such buildings. All plans and specifications for the erection thereof shall be submitted to and approved by the Planning Commission before the adoption by the authority engaged in such construction.

2. Review proposed amendments to this Zoning Ordinance or the Zoning District Map and make recommendations to Council.
3. Review, and then approve, approve with modifications or disapprove subdivision plats, development plans for Planned Unit Development applications and site plans for Standard District applications, with reference to the provisions of this Zoning Ordinance or any amendments hereto and the subdivision regulations of the Village; such approval, approval with modifications or disapproval shall be forwarded as a recommendation to the Council.

5.21.5 OPEN FOR FUTURE USE.

5.21.6 OPEN FOR FUTURE USE.

5.21.7 REMEDIES.

In the event of violation of any regulation, provision, amendment of or supplement to this Zoning Ordinance, or in the event of the imminent threat thereof, the Village or the owner of any contiguous or neighboring property who is or would be damaged by such violation, in addition to any other remedy provided by law, may petition any court of competent jurisdiction to enjoin a threatened violation or to terminate a continuing violation.

5.21.8 PENALTY.

Any person, firm or corporation violating any regulation, prohibition or provision of this Zoning Ordinance, or any amendments hereto or failing to obey any lawful order of the Zoning Inspector issued pursuant to the provisions of this Zoning Ordinance or any amendments hereto shall be deemed guilty of a minor misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100.00). Each day during which such violation continues shall be deemed a separate offense.

ARTICLE 5.22:

SITE PLAN.

- 5.22.1 Purpose and Intent**
- 5.22.2 Site Plan Required**
- 5.22.3 Definitions**
- 5.22.4 Minor Site Plan**
- 5.22.5 Major Site Plan**
- 5.22.6 Design Standards**

5.22.1 PURPOSE AND INTENT.

The requirements provided for herein are intended to manage and direct the development environment as private investment decisions are made within the public planning and zoning arena to promote good planning and site development, to reduce and mitigate environmental and service impacts resulting from development, and to protect the public health, safety, and general welfare.

5.22.2 SITE PLAN REQUIRED.

Prior to issuance of a zoning certificate for all developments, a site plan as defined herein shall be submitted to the Village for review and approval.

5.22.3 DEFINITIONS.

The following definitions apply to this chapter.

- a. Development - The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; the construction, expansion or modification of any parking areas, loading areas, access drives or other paved surfaces; any mining, excavation, landfill or other modification of the natural landscape; any changes to approved landscape plans including plant materials, grading, walls or fences.
- b. Site Plan - A plan, to scale, that illustrates the proposed physical changes to a parcel or parcels of land.
- c. Major Site Plan - A plan for a development which meets one of the following definitions:
 - 1. A development involving any new construction other than one single family dwelling or one two family dwelling;
 - 2. A development, other than for one single family dwelling or one two family dwelling, involving an addition of more than 20 percent of the gross floor area of a structure or more than 2,000 square feet of gross floor area, whichever is less;
 - 3. A development involving more than 10,000 square feet of impervious surface;
 - 4. A development impacting or adjacent to a historic, archaeological, or environmentally sensitive feature;
 - 5. A development impacting a non-residential site adjacent to a residential zoning district;
 - 6. A development which conflicts with the adopted Village master plan;
 - 7. A development, other than one single family dwelling or one two family dwelling,, involving a non-conforming site or a site which does not meet the development standards of the zoning district in which it is located;
 - 8. A development which generates sufficient volumes of traffic, unusual patterns, or types of traffic that result in lowering the level of service of affected streets or intersections; or
 - 9. Other unusual or unique impacts which, in the professional opinion of the Zoning Inspector, warrant public review.
- d. Minor Site Plan - A plan for a development which does not qualify as a Major Site Plan.

5.22.4 MINOR SITE PLAN.

- a. Application. An application for a minor site plan shall be filed by the applicant with the authorization of the property owner on a form provided by the Zoning Officer.
- b. Submittal Requirements.
 - 1. A sketch plan showing boundary information, existing and proposed development, existing and proposed easements, rights-of-way, and utilities, including storm water drainage.
 - 2. The sketch plan shall indicate buildings, service areas, parking, fencing, landscaping, and all required setbacks.
 - 3. All parking and loading areas shall be shown, including typical dimensions of parking stalls, aisles and loading spaces.
 - 4. All driveways and curb cuts shall be indicated, including major aisle ways and service routes. Pedestrian circulation shall also be indicated.
 - 5. Handling of all waste and refuse materials shall be indicated.
 - 6. All landscaping shall be shown.
 - 7. All signage shall be shown.
 - 8. All exterior lighting shall be shown, including parking lot, pedestrian, and building accent lighting. Lighting intensity and installation height shall be indicated.
 - 9. Exterior building design and surface treatments shall be indicated, including building material and color. Color and material samples shall also be made available for inspection.
- c. Procedure.
 - 1. Any applicant requesting approval of a minor site plan as defined herein shall submit to the Zoning Inspector four copies of the application, including the items specified in 5.22.4(b) Submittal Requirements and the prescribed fee.
 - 2. Within 30 days of filing a complete application, the Zoning Inspector shall approve or disapprove the application for site plan review based upon adopted regulations and standards, and the

requirements set forth in this Zoning Ordinance, or determine that the application is a major site plan. If the application is determined to be a major site plan, the Zoning Inspector will schedule a review by Planning Commission, at the request of the applicant.

d. Action and Effect. Upon approval of a minor site plan, the Zoning Inspector shall issue a zoning certificate. Authority to proceed pursuant to a zoning certificate shall lapse unless the action authorized by the zoning certificate is commenced within one year after the zoning certificate is issued and completed within two and one half years from the date of the zoning certificate.

5.22.5 MAJOR SITE PLAN.

a. Application. An application for a major site plan shall be filed by the applicant with the authorization of the property owner on a form provided by the Zoning Inspector. Nothing shall prevent the concurrent submittal of an application for a major site plan with the submittal of an application for a zoning map amendment. Approval of a major site plan submitted concurrently with an application for zoning map amendment may not become effective until the zoning map amendment application has been approved by Council and such amendment has become effective.

b. Submittal Requirements.

1. A survey showing boundary information, existing and proposed development, existing and proposed easements, rights-of-way, and utilities, including storm water drainage. ✓
2. The site plan shall indicate structures, service areas, parking, signage, fencing, landscaping, and all required setbacks. ✓
3. All parking and loading areas shall be shown, including typical dimensions of parking stalls, aisles and loading spaces. ✓
4. All major circulation routes shall be indicated, including arterials, adjacent curb cuts, collector and local streets, driveways, curb cuts, major aisle ways and service routes. Major pedestrian circulation routes shall also be indicated, including dimensions on path and pedestrian crossings, etc., plus any attempts at separating vehicular and pedestrian/recreation movement. ✓
5. Handling of all waste and refuse materials shall be indicated. ✓
6. Proposed landscaping shall be shown, as per a landscape plan required by Article 5.18. ✓
7. All signage and graphics shall be shown as required by Article 5.17. ✓
8. All exterior lighting shall be shown, including parking lot, pedestrian, and building accent lighting. ✓
9. Lighting intensity and installation height shall be indicated. ✓
10. Exterior building design and surface treatments shall be indicated, including building material and color. ✓
11. Color and material samples may also be requested. ✓

c. Procedure.

1. Any applicant requesting approval of a major site plan as defined herein shall submit to the Zoning Inspector 20 copies of the application, including the items specified in Article 5.22.5(b) Submittal Requirements, the prescribed fee, and any other information as determined appropriate by the Planning Commission, in accordance with the submission schedule of the Planning Commission.
2. It shall be the duty of the Planning Commission to review the major site plan and determine whether it complies with the Village Ordinances and accepted planning principles. Such determination shall be made within sixty days of the first meeting that the Planning Commission initially considers the major site plan, unless the applicant has agreed to an extended period of time.
3. The Planning Commission shall either approve, approve with modifications, or disapprove an application for a major site plan. Any approval, approval with modifications, or disapproval shall be forwarded as a recommendation to the Council and Council shall act upon such recommendation within sixty days of the Planning Commission's recommendation unless the applicant has agreed to an extended period of time. A two-thirds majority of the members of Council are required for Council to modify or reverse a recommendation of the Planning

Commission. A failure to obtain a two-thirds majority of Council for reversing or modifying the Planning Commission's recommendation shall result in the Major Site Plan being approved as recommended by the Planning Commission.

d. Modifications of the Major Site Plan.

1. Development shall be in conformance with the Major Site Plan and construction of site improvements must be commenced within one year of the issuance of the zoning certificate; otherwise no development of the land shall take place until a new Major Site Plan is approved pursuant to this section. Once commenced, construction must be completed within two and one half years from the date of the zoning certificate.
2. The same procedure for approval of a Major Site Plan is required before any modification of the approved Major Site Plan may be made. Development of land shall not proceed prior to final approval of the Major Site Plan. Any development undertaken without such final approval is in violation of this zoning ordinance or any amendments hereto and is an abatable nuisance.

e. Variances from Development Standards.

Council shall have the power to authorize by the majority of the members of Council, upon recommendation from the Planning Commission, to approve variances from the Development Standards of Article 5.15, Off-Street Parking and Loading Areas of Article 5.14, Signs of Article 5.17, and Landscaping of Article 5.18, as part of the Major Site Plan. These variances shall be consistent with the intent of the zoning district. No action by the Board of Zoning Appeals is required for these variances.

5.22.6 DESIGN STANDARDS.

The following design standards are provided as: (1) guidelines for consideration by applicants in preparing site plans; and (2) as decision considerations by the Planning Commission and Council in reviewing site plans.

- a. Purpose. The purpose of good site design is to create a functional and attractive development, to minimize adverse environmental and physical impacts, and to ensure a project will be an asset to the Village of Ashley. To promote this purpose, the site plan shall conform to the design standards and related goals and objectives of the Village of Ashley, which together are designed to result in a well-planned community without adding unnecessarily to development costs.
- b. Site Analysis. An analysis may be required of the environmental and building characteristics of the development site, including, but not limited to, site context, geology and soils, topography, drainage, climate, ecology, vegetation, existing structures, road networks and access, visual features and urban design, and past and present use of the site.
- c. Site Design.
 1. Design of the development shall take into consideration all existing local plans for the Village of Ashley.
 2. Development of the site shall be based upon the site analysis. To the maximum extent possible, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.
 3. The following specific areas shall be preserved to the extent possible as open space:
 - A. Unique and/or fragile areas, including wetlands;
 - B. Significant trees or stands of trees;
 - C. Property within the 100-year flood plain as mapped by the National Flood Insurance Program;
 - D. Poorly drained soils.
 - E. Steep slopes in excess of 20 percent as measured over a 10-foot interval unless appropriate engineering measures concerning slope stability, erosion, and resident safety are taken;
 - F. Habitats of endangered wildlife, as identified by the State of Ohio, Department of Natural Resources, Natural Heritage Program.
 - G. Historically significant structures, as identified by local officials, Ohio Historic Inventory, / or National Register of Historic Places/Districts.
 4. The development shall be laid out to avoid adversely affecting groundwater and aquifer recharge; to reduce cut and fill; to prevent flooding; to provide adequate access to lots and sites; and to

mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

5. The design treatment of the site and all proposed structures shall ensure compatibility and sensitivity to adjacent properties and structures.

ARTICLE 5.23:
AMENDMENTS

5.23.1 Amendment of Zoning Ordinance and Zoning District Map.

5.23.2 Form of Application for Amendments

5.23.3 Review of Procedure

5.23.4 Action of Council on Amendments

5.23.1 AMENDMENT OF ZONING ORDINANCE AND ZONING DISTRICT MAP.

All amendments to the Zoning Ordinance shall comply with Section 713.12 of the Ohio Revised Code. The provisions of this Zoning Ordinance and the district boundaries as established by the Zoning District Map may be amended to meet changing conditions or to better conform to good zoning practices. Amendments may be initiated:

- a. By request of the Planning Commission directed to Council to enact an ordinance embodying an amendment to this Zoning Ordinance or the Zoning District Map as recommended by the Planning Commission. Council shall enact the request of the Planning Commission by ordinance, deny the request of the Planning Commission, or modify the request of the Planning Commission by ordinance.
- b. By action of Council directing the Planning Commission to prepare an ordinance to amend this Zoning Ordinance or the Zoning District Map.
- c. By the filing of an application by one or more owners of property requesting that the Zoning District Map for the area in which the applicants own property be amended.
- d. Any property annexed into the Village shall be classified as Green Space District pursuant to Article 5.10 of this Ordinance.

5.23.2 FORM OF APPLICATION FOR AMENDMENTS.

a. An application by property owners pursuant to Article 5.23.1(c) for a change of district boundaries shall be filed in writing with the Zoning Inspector. The applicant shall pay a fee, as listed in the Village fee schedule, to defray the cost of advertising, staff review and other costs incidental to the application. The applicant shall submit twenty (20) copies of the application to the Zoning Inspector. The application shall contain the following:

1. Names, addresses and phone numbers of the applicants and owners.
2. A current and accurate legal description of the area for which the amendment is sought.
3. The existing use and zoning district and the proposed use and zoning district for the property within the area.
4. A list of all property owners, contiguous to and directly across the street(s) from the area sought to be zoned, together with their mailing addresses. Two sets of addressed and stamped envelopes each of which is addressed to the property owners whose names appears on the submitted list.
5. Any deed restrictions, easements, covenants and encumbrances to be imposed to control the use, development and maintenance of the area to be zoned.
6. In appropriate cases, at the request of the Planning Commission, an estimate of the utility requirements of the area should the amendment be adopted, including sewer, water, storm water, refuse and electricity.
7. In appropriate cases, at the request of the Planning Commission, an estimate of potential traffic generation in the area should the amendment be adopted.
8. A vicinity map drawn to reasonable scale, showing property lines, ownership, street addresses when known, streets, and existing and proposed zoning within the area sought to be zoned. The vicinity map shall also depict all land within 300 feet of the boundaries of the area to be zoned, showing property lines, ownership, streets and street addresses when known, and shall be subject to later amendments at the request of the Planning Commission to supply such additional information as it may require.

- b. When an amendment is initiated by the Planning Commission or Council pursuant to Article 5.23.1, a copy of the proposed ordinance shall be filed with the Zoning Inspector.

5.23.3 REVIEW PROCEDURE.

a. Hearing Before and Recommendations of Planning Commission. The Planning Commission shall review all proposed amendments to this Zoning Ordinance or the Zoning District Map initiated pursuant to Article 5.23.1 and make recommendations to Council on each proposed amendment pursuant to the following procedures:

1. Setting hearing date. Upon the initiation of an amendment to this Zoning Ordinance or the Zoning District Map, the Zoning Inspector shall promptly fix a date for a public hearing before the Planning Commission for review of the proposed amendment. If desired by the Planning Commission, additional public hearings may be held.
2. Publication of notice of hearing. Notice of the hearing before the Planning Commission shall be published once in one or more newspapers of general circulation in the Village, at least twenty (20) days prior to the date fixed for the hearing. The notice shall include the place, time and date of the hearing and the nature of the proposed amendment. Failure of a newspaper to accurately or timely publish a properly submitted notice does not invalidate adoption of the proposed amendment as an amending ordinance.
3. Notice to property owners. If the proposed amendment intends to re-zone or re-district ten or less parcels of land, as listed on the tax duplicate, a notice containing the information required by (a)(2) hereof shall be sent by first class mail to all property owners, contiguous to or directly across a street or alley from the area which is the subject of the proposed amendment, not less than twenty (20) days prior to the date fixed for the initial hearing. Failure of any such property owners to receive mail notice does not invalidate adoption of the proposed amendment as an amending ordinance.
4. Notice to State Director of Transportation. The Zoning Inspector shall give notice by registered or certified mail to the State Director of Transportation of the initiation of any proposed amendment that:
 - A. Affects any land within 500 feet from a state highway
 - B. If the Director of Transportation's response is negative, the Planning Commission will stay their proceedings until the reason for the negative response is resolved.
5. Hearing. In reviewing the proposed amendment and arriving at its recommendation, the Planning Commission shall consider the following factors:
 - A. Compatibility of the amendment sought with the use of adjacent land, adjacent zoning and with land use plans for the general area.
 - B. Impact of the adoption of an amendment sought on motor vehicle access and traffic flow in the general area.
 - C. Impact of the adoption of the proposed amendment upon the public health, safety and general welfare of the residents of the Village.
 - D. Impact of the adoption of the proposed amendment on available public facilities, general expansion plans of the Village, and the Village's schedule for improvement of capital facilities.
6. Recommendations. No later than thirty-five days following the last public hearing on the proposed amendment, unless the applicant has agreed to an extended period of time, the Planning Commission shall make one of the following recommendations to Council:
 - A. That the proposed amendment be adopted.
 - B. That the proposed amendment be adopted with modifications recommended by the Planning Commission.
 - C. That the proposed amendment not be adopted.

b. Hearings Before and Consideration of Council. Council shall consider all proposed amendments to this Zoning Ordinance and the Zoning District Map and the recommendations of the Planning Commission concerning proposed amendments, and act on the proposed amendments and recommendations, pursuant to the following procedures:

1. Setting hearing date. Following receipt of the recommendation of the Planning Commission, and upon introduction of the proposed amendment at a meeting of Council as an amending ordinance, Council shall promptly fix a date for a public hearing before Council for consideration of the amending ordinance. If desired by Council, additional public hearings may be held.
2. Publication of notice of hearing. Notice of the hearing before Council shall be published once in one or more newspapers of general circulation in the Village at least thirty (30) days prior to the date fixed for the hearing. The notice shall include the place, time and date of the hearing and the nature of the amending ordinance. Failure of a newspaper to accurately or timely publish a properly submitted notice shall not invalidate adoption of the amending ordinance.
3. Notice to property owners. If the proposed amendment intends to rezone or redistrict 10 or less parcels of land, as listed on the tax duplicate, a notice containing the information required by (b)(2) hereof shall be sent by first class mail to all property owners, contiguous to or directly across a street or alley from the area which is the subject of the proposed amendment, not less than twenty days prior to the date fixed for the hearing. Failure of any such property owners to receive mail notice shall not invalidate adoption of the amending ordinance.
4. Hearing. At the time fixed for the public hearing, Council shall allow testimony from all persons interested in the proposed amendment.

5.23.4 ACTION OF COUNCIL ON AMENDMENTS.

A three-fourths majority of the members of Council are required for Council to modify or reverse a recommendation of the Planning Commission. No ordinance, measure, or regulation which is in accordance with the recommendations of the Planning Commission shall be deemed to pass or take effect without the concurrence of at least a majority of the members elected to Council.

ARTICLE 5.24: **CONDITIONAL USES**

- 5.24.1 Purpose
- 5.24.2 Application for Permit
- 5.24.3 Criteria for Approval
- 5.24.4 Procedure
- 5.24.5 Violation of Findings of Fact; Permit Revocation
- 5.24.6 Appeal

5.24.1 PURPOSE.

Under some unusual circumstances a use which more intensely affects an area than those uses permitted in the zoning district in which it is located may nevertheless be desirable and also be compatible with permitted uses within the zoning district, if that use is properly controlled and regulated. The Board of Zoning Appeals may allow such a use to exist as a conditional use where these unusual circumstances exist and where the conditional use will be consistent with the general purpose and intent of this Zoning Ordinance.

5.24.2 APPLICATION FOR PERMIT.

- a. Application to be Made. Written application for a conditional use permit shall be made to the Board of Zoning Appeals and filed with the Zoning Inspector who shall transmit the application to the Board of Zoning Appeals. The application shall be signed by the owner of the property affected, and shall state the information provided is accurate and truthful.
- b. Application Fee. The applicant shall pay a fee, as listed in the Village fee schedule, to cover advertising, review, publishing and reporting the proceedings of the Board of Zoning Appeals.
- c. Contents of Application. The application shall include:
 1. The name, address and telephone number of the owner of the property;

2. An accurate legal description of the property;
3. The existing use, proposed conditional use and the zoning district in which the property is located;
4. A statement of the relationship and general compatibility of the proposed use to adjacent land use in terms of traffic, parking and noise and other nuisances;
5. A list of all owners of property, including their mailing addresses, which are contiguous to or directly across the street(s) from the property. One set of addressed and stamped envelopes each of which is addressed to the property owners whose names appear on the submitted list;
6. Twenty copies of a plot plan showing:
 - A. Boundaries and dimensions of the property and the size and location of all proposed or existing structures.
 - B. Traffic access, traffic circulation, existing and proposed utility easements, parking, location of trees and shrubs, signs, refuse and service areas.
 - C. Any additional information required by the Zoning Inspector to establish the advisability of granting the conditional use permit.

5.24.3 CRITERIA FOR APPROVAL.

The following criteria shall be considered for each application for a conditional use permit:

- a. Whether the proposed conditional use is a listed conditional use in the appropriate Article of this Zoning Ordinance for the zoning district in which the property is located.
- b. Whether the development standards of the zoning district in which the property is located are being complied with.
- c. Whether the proposed use will create an undue burden on public facilities and services such as streets, utilities, schools and refuse disposal.
- d. Whether the proposed use will be detrimental to existing and future neighboring uses, and will involve a use, structure or condition of operation that constitutes a nuisance or hazard to any persons or property.

5.24.4 PROCEDURE.

- a. Setting Hearing. The Zoning Inspector shall set a public hearing to review applications for a conditional use permit. If desired by the Board of Zoning Appeals, additional public hearings may be held.
- b. Notice of Hearing and Time for Consideration.
 1. Notice of Public Hearing before the Board of Zoning Appeals shall be published once in one or more newspapers of general circulation in the Village, at least twenty days prior to the date fixed for the hearing. The notice shall include the place, time and date of the hearing, the location of the property and the nature of the proposed conditional use. Failure of a newspaper to accurately or timely publish a properly submitted notice does not invalidate the granting or denial of a conditional use permit.
 2. A notice containing the information required by (b)(1) hereof shall be sent by first class mail to all property owners listed pursuant to Article 5.24.2(c)(5), not less than twenty days prior to the date fixed for the hearing. Failure of any such property owners to receive mail notice does not invalidate the granting or denial of a conditional use permit.
- c. Action Within thirty-five days after the date of the last public hearing, the Board of Zoning Appeals shall take one of the following actions:
 1. Approve issuance of the conditional permit by making an affirmative finding in writing that the proposed conditional use is to be located in a district wherein such use may be conditionally permitted, that all conditions for approval of such use in such a district have been met and that such use will neither result in significant impacts upon nor conflict with surrounding uses.
 2. Make a written finding that the application is denied, each finding specifying the reason(s) for disapproval.

d. Supplementary Conditions and Safeguards In granting approval for any conditional use, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards as are reasonably necessary to secure the purpose and objectives of this Zoning Ordinance. Any violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a punishable violation of this ordinance.

e. Issuance of Conditional Use Permit. Upon approval of the Board of Zoning Appeals, the Zoning Inspector shall issue to the applicant a conditional use permit which includes any conditions imposed by the Board of Zoning Appeals. Such permit shall become effective upon approval by the Board of Zoning Appeals. A conditional use permit shall authorize only one particular conditional use and such permit shall automatically expire if, for any reason, the conditional use shall not begin within one year after the permit is issued. A Conditional Use Permit shall be personal to the applicant and shall not run with the land, and shall expire upon a transfer of ownership unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land.

5.24.5 VIOLATION OF FINDINGS OF FACT; PERMIT REVOCATION.

a. Whenever a previously approved conditional use is being violated, the Zoning Inspector shall give notice in the same manner as service of summons in civil cases, or by certified mail addressed to the owner of record of the premises at his last known address or to the address to which tax bills are sent. Such notice shall include reasons by which the Zoning Inspector finds the conditional use to be in violation, and a statement that the owner shall have thirty days to comply with the granted conditional use permit.

b. Upon failure of the owner to comply with the notice, the Zoning Inspector shall notify the Board of Zoning Appeals that the conditional use is in violation and itemize the reasons for revocation of the conditional use permit. The Zoning Inspector shall also give notice that the Board of Zoning Appeals will consider revoking the conditional use permit at its next regular meeting. Such notice shall be given by certified mail addressed to the owner of record of the premises at his last known address or to the address that tax bills are sent to.

c. The Board of Zoning Appeals shall continue or revoke the conditional use permit at its first regular meeting after the notice is received.

5.24.6 APPEAL.

Any person aggrieved by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Delaware County pursuant to the Ohio Revised Code.

ARTICLE 5.25: **VARIANCES**

- 5.25.1 Purpose**
- 5.25.2 Definitions**
- 5.25.3 Application for Variance**
- 5.24.4 Criteria for Approval for Use Variance**
- 5.25.5 Criteria for Approval for Area Variance**
- 5.25.6 Procedure**

5.25.1 PURPOSE.

Under some unusual circumstances due to the peculiar size, shape or topography of land, full and strict compliance with all development standards of this Zoning Ordinance could result in substantial hardship or injustice to the owner of the land and could even result in undesirable development of the land. The Board of Zoning Appeals may grant a variance to permit limited deviation from the development standards of this Zoning Ordinance or any amendment hereto under the criteria of Article 5.25.4 and 5.25.5 where the development resulting from granting the variance will be consistent with the general purpose and intent of this Zoning Ordinance or any amendments hereto.

5.25.2 DEFINITIONS

- a. Variance- A variance authorizes a land owner to establish or maintain a use which is prohibited by the zoning regulations. Thus, a variance results in a deviation from the literal import of the Ordinance and may be granted only upon the showing of practical difficulties or unnecessary hardship.
- b. Conditional Use Permit- Conditional Use Permit is a special permit which is evidenced by a Conditional Zoning Certificate, authorizing a use which is permitted by the Zoning Regulations, subject to the issuance of such permit or conditional certificate. Thus, the special permit results in the establishment or maintenance of a use in the location and under the circumstances mandated by the Zoning Ordinance or any amendments hereto and such permit may be granted upon whatever terms are imposed by the Board of Zoning Appeals.
- c. Use Variance- A Use Variance is designed to allow a use in a zone where the proposed use is otherwise prohibited.
- d. Area Variance- An Area Variance is designed to allow an applicant relief from "area" requirements under a Zoning Ordinance such as setbacks, density, minimum yard requirements or height restrictions.

5.25.3 APPLICATION FOR VARIANCE.

- a. Filing. Written application for a variance shall be made to the Board of Zoning Appeals and filed with the Zoning Inspector who shall transmit the application to the Board of Zoning Appeals. The application shall be signed by the owner of the property affected and shall state that the information provided is accurate and truthful.
- b. Fee. The applicant shall pay a fee, as listed in the Village fee schedule, to cover advertising, review, publishing and reporting the proceedings of the Board of Zoning Appeals.
- c. Contents of Application. The application shall include:
 - 1. The name, address and telephone number of the owner of the property;
 - 2. An accurate legal description of the property;
 - 3. The exact nature of the variance requested, including reference to the development standards from which applicant seeks deviation;
 - 4. A statement explaining the relationship of the requested variance(s) to the criteria for approval as listed in Article 5.25.4 and/or 5.25.5.
 - 5. A list of all owners of property including their mailing addresses, contiguous to, or directly across the street or streets from the property. Two sets of addressed and stamped envelopes each of which is addressed to the property owners whose names appears on the submitted list.
 - 6. Fifteen copies of a plot plan showing:
 - A. Boundaries and dimensions of the property, the size and location of all proposed or existing structures and the location of trees and shrubs.
 - B. The nature of the special conditions or circumstances.
 - C. The proposed use of all parts of the lot and structures.
 - D. The use of land and location of structures on adjacent property.
 - 7. Any additional information required by the Zoning Inspector or the Board of Zoning Appeals to establish the advisability of granting the variance.

5.25.4 CRITERIA FOR APPROVAL FOR USE VARIANCE

The following considerations shall be examined in the review of an application for variance:

- a. That special circumstances or conditions exist which are peculiar to the land or structures involved and which are not applicable to other lands or structures in the same zoning districts.
- b. That a literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant(s) of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Ordinance.
- c. That the special conditions and circumstances do not result from the actions of the applicant(s).

- d. That the granting of the variance will not confer on the applicant(s) any special privilege that is denied by this Zoning Ordinance to other lands or structures in the same zoning district.
- e. That the granting of the variance will in no other manner adversely affect the health, safety and general welfare of the persons residing or working within the vicinity of the proposed use variance

5.25.5 CRITERIA FOR APPROVAL FOR AREA VARIANCE

The Board of Zoning Appeals will determine whether the applicant has encountered practical difficulties in the use of his property. The following is a list of factors to be considered and weighed in determining whether the applicant has encountered these practical difficulties. This is a non-exhaustive list and includes the following:

- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the Variance.
- b. Whether the Variance is substantial.
- c. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the Variance.
- d. Whether the Variance would adversely affect the delivery of governmental services (e.g. water, sewer, garbage).
- e. Whether the property owner purchased the property with knowledge of the zoning restriction.
- f. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
- g. Whether the spirit and intent of the zoning requirement would be observed and substantial justice done by granting the Variance.
- h. Any other factors as the Board of Zoning Appeals deems relevant.

5.25.6 PROCEDURE.

- a. Setting Hearing. The Zoning Inspector shall set a public hearing to review the applicant's application for variance.
- b. Notice of Hearing and Time for Consideration.
 - 1. Notice of the hearing before the Board of Zoning Appeals shall be published once in one or more newspapers of general circulation in the Village, at least twenty days prior to the date fixed for the hearing. The notice shall include the place, time and date of the hearing, the location of the property and the nature of the proposed variance. Failure of a newspaper to accurately or timely publish a properly submitted notice does not invalidate the granting or denial of a variance.
 - 2. A notice containing the information required by (b)(1) hereof shall be sent by first class mail to all property owners listed, pursuant to Article 5.25.3(c)(5) not less than twenty days prior to the date fixed for the hearing. Failure of any such property owners to receive mail notice does not invalidate the granting or denial of a variance.
- c. Public Hearing. The Board of Zoning Appeals shall grant or deny the variance not later than thirty-five days following the last public hearing and after considering the requirements of the Zoning Ordinance. The Board of Zoning Appeals shall impose such conditions as are reasonably necessary to serve the purpose and objectives of this Zoning Ordinance.
- d. Issuance of Zoning Certificate. If the variance is approved by the Board of Zoning Appeals, the Zoning Inspector shall issue to the applicant a zoning certificate which states all terms of the variance as granted, including any conditions imposed by the Board of Zoning Appeals. A variance and any right to a Zoning Certificate based on said variance shall expire automatically if, for any reason, within one year of approval of the variance, commencement has not occurred on the construction, development or improvement for which the variance was granted. Once initiated, construction must proceed in a typical, conscientious and continuous manner toward completion.
- e. Appeal. Any person aggrieved by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Delaware County pursuant to the Ohio Revised Code.

Zoning Ordinance

Appendix B

TABLE OF HEIGHT, AREA, AND SETBACK REQUIREMENTS

RESIDENTIAL (R-1; R-2; R-3; R-4; R-5)							
	Wall Signs Maximum Area (square feet)	Wall Signs Maximum Height (feet)	Ground Signs Maximum Area (square feet)	Ground Signs Maximum Height (feet)	Ground Signs Minimum Setback (feet)		Window Signs Maximum Area (square feet)
PERMANENT SIGNS							
Home Occupation	1	8	2	5	8		not permitted
Bed & Breakfast	3	8	2	5	8		not permitted
Entry Feature Sign	not permitted	n/a	20	6	0		not permitted
Conditional Uses	See Note A	See Note A	See Note A	See Note A	See Note A		not permitted

Note A: As authorized by the Village of Ashley Board of Zoning Appeals.

ZONING ORDINANCE

APPENDIX A

One animal unit is set to equal a 1,000-pound feeder steer. To calculate the number of animal units for other livestock species, multipliers are used:

Species	Multiplier
Slaughter/feeder cattle	1
Mature dairy cattle (milked or dry)	.7
Swine (each weighing more than 55 lbs.)	2.5
Horses	.5
Sheep or lambs	10
Turkeys	55
Laying hens or broilers	100

Zoning Ordinance

Appendix B Continued

TABLE OF HEIGHT, AREA, AND SETBACK REQUIREMENTS

NONRESIDENTIAL						
	Wall Signs Maximum Area (square feet)	Wall Signs Maximum Height (feet)	Ground Signs Maximum Area (square feet)	Ground Signs Maximum Height (feet)	Ground Signs Minimum Setback (feet)	Window Signs Maximum Area (square feet)
PERMANENT SIGNS						
School, Church, Library	20	8	15	6	8	not permitted
Day Care/Nursing Homes	20	8	15	6	8	not permitted
Office (Admin., Professional)	50	15	50	15	8	10
General Commerce (Retail, Restaurant, Lodging, Consumer Service, Personal Service, Entertainment, Wholesaling, Bank, Hospital, Manufacturing, Research)	80	15	50	15	8	10
Joint Identification	not permitted	n/a	80	15	8	not permitted

Zoning Regulations

APPENDIX C: PROPERTY PERIMETER REQUIREMENTS

	A. When the following	B. ...adjoins the following; or vice versa:	C. the minimum landscape.. within a buffer zone of this average width (with 3 ft. as the least dimension) is required. ¹	D. ..which will contain this material ² , to achieve opacity required.
1.	Any residential zone	Mobile home park	10 ft., adjacent to all common boundaries, including street frontage	1 tree/40 ft. of lineal boundary, OFT ³ , plus continuous 6 ft. high planting, hedge, fence, wall or earth mound
2.	Any residential zone	Any office zone	6 ft. adjacent to all common boundaries except street frontage	Same as 1.D.
3.	Any residential zone	Any business zone	10 ft. located as above (2.C.)	Same as 1.D.
4.	Any residential zone	Any industrial zone	15 ft. located as above (2.C.)	Same as 1.D.
5.	Any office or business zone	Any industrial zone	15 ft. located as above (2.C.)	Same as 1.D.
6.	Any zone except rural zone	A freeway or arterial street prohibiting driveways	20 ft. for residential zones and 10 ft. for all other zones adjacent to freeway or arterial street	1 tree/30 ft. OFT, plus continuous 6 ft. height planting, hedge, wall, fence or earth mound
7.	Any zone except agricultural and industrial zones	Railroads (except spur tracks	Same as 6.C., adjacent to railroad boundaries	Same as 6.D.
8.	Any property boundary, including street right-of-way	Utility substation, junk yards, landfills, sewage plants or similar uses	15 ft. adjacent to all boundaries except only 5 ft. for utility substations measured adjacent to the enclosure	Same as 6.D.
¹ Six feet shall be the least dimension for any commercial or industrial zone with three feet as the least dimension for any other zone.				
² Grass or ground cover shall be planted on all portions of the easement not occupied by other landscape material.				
³ OFT means "or fraction thereof." Trees do not have to be equally spaced, but may be grouped.				

APPENDIX D: VEHICULAR USE AREA PERIMETER REQUIREMENTS

A. When the following	B. ...adjoins the following, or vice versa:	C. the minimum landscape easement of this width is required. ¹	D. ...which will contain this material ² to achieve opacity required
1. Any property in any zone except C-1 District.	Any vehicular use areas ³ on adjacent property	4 ft. minimum to all trees from edge of paving where vehicles overhang, and 3 ft. strip that prohibits any vehicular overhang for other areas, adjacent to portion of vehicular use area that faces building on adjacent property.	1 tree/40 ft. of boundary of vehicular area OFT, plus a 3.5 ft. average height continuous planting, hedge, fence, wall or earth mound
2. Any public or private street right-of-way, access road or service road, except freeways	Any vehicular use area, outside of C-1 District (except vehicular sales facilities) in any zone	Same as 1.C. above, except applies to VUA portion facing public or private street	1 tree/40 ft. OFT, plus 3.5 ft. average height continuous fence, wall, planting, hedge, earth mound
3. Same as 2.A.	Any vehicular use area in a vehicular sales facility	Same as 2.C. above	1 tree/30 ft., OFT with at least a 2 inch caliper along the entire street frontage, plus a 3.5-foot average height continuous fence, wall, hedge, planting or earth mound along at least 75% of the street frontage. The remaining street frontage, not to exceed 25%, shall include a 12-inch height vegetative planting.
4. Same as 2.A.	Any vehicular use area (except loading and unloading areas) in C-1 District	3 ft. strip adjacent to portion of vehicular use area that faces a public or private street right-of-way	3.5 ft. average height continuous planting, hedge, fence or wall

Continuation of Appendix D

¹ These provisions may be included within the property perimeter easements required by Section 5.18.1 through Section 5.18.6 where landscape easements are also applicable.

² Grass or ground cover shall be planted on all portions of the easements not occupied by other landscape material.

³ A vehicular use area (VUA) is an open or unenclosed area containing more than 1,800 square feet of area and/or used by six or more of any type of vehicle, whether moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph, and where intervening curbs, sidewalks, landscape strips, etc. do not eliminate adjacency.

⁴ OFT means "or fraction thereof."

⁵ *Purpose statement.* The intent of these requirements is to improve the appearance of vehicular use areas and property abutting streets. The vehicular use area perimeter requirement for vehicular sales facilities allows the creation of "picture frame(s)" along streets for vehicular sales display. The following formula shall be used to determine the display area allowed per street frontage: Linear distance of street frontage (from lot line to lot line to corner in feet) x .25 = display area (in feet). Vehicles in the display area shall be located behind the 12-inch height planting and all vehicles shall be parked at grade. Screening requirements for the remaining vehicular use areas that adjoin a street frontage shall be similar to those for other uses with one exception. The spacing between trees is reduced. These requirements will help to mitigate the glare from artificial lights.